

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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| In the Matter of |) | |
| |) | |
| Applications for Consent to |) | |
| Transfer Control of Micronesian |) | |
| Telecommunications Corporation and |) | |
| GTE Pacifica Inc. |) | |
| |) | |
| BELL ATLANTIC NEW ZEALAND |) | IB Docket No. 02-111 |
| HOLDINGS, INC. |) | |
| Transferor |) | |
| and |) | |
| |) | |
| PACIFIC TELECOM INC. |) | |
| Transferee |) | |

To: Chief, International Bureau

**JOINT OPPOSITION TO
PETITIONS TO DENY AND INFORMAL OPPOSING COMMENT**

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SUMMARY

Bell Atlantic New Zealand Holdings, Inc. (“Seller”) and Pacific Telecom Inc. (“Buyer”) (collectively, “Joint Applicants”) jointly oppose the four petitions to deny and the opposing comment (“Opposing Petitioners”) filed against the applications to transfer control of certain Commission licenses and authorizations held by Micronesian Telecommunications Corporation and its wholly-owned subsidiary, GTE Pacifica Inc. (collectively, “the Companies”), both of which are headquartered in the Commonwealth of the Northern Mariana Islands (“CNMI”). This Joint Opposition demonstrates that the petitions to deny and informal comment have no procedural or substantive merit and that grant of the applications would serve the public interest.

As an initial matter, several of the pleadings are not what they appear to be. For example, the petitions of the CNMI House of Representatives and Senate were not authorized by a vote of the legislative bodies they purportedly represent, but only by individual local legislators. Moreover, the Governor of Guam already has withdrawn the unauthorized petition filed in his name. In addition, the Petitions focus on unsubstantiated allegations and conclusory facts and, as a result, cannot serve to establish the required *prima facie* case that grant of the applications is contrary to the public interest.

The objections regarding the foreign ownership of the Buyer do not support denial of the proposed transfer of control. In an effort to promote competition in the U.S. market, the Commission permits indirect foreign ownership investment in common carrier radio licensees up to and including 100 percent by entities from WTO member countries. Both the 72.1 percent of Buyer owned by non-U.S. WTO citizens and the requested flexibility to bring in additional WTO investors for a combined total of 87.1 percent indirect foreign investment would be fully consistent with and promote the Commission’s pro-competitive rules and policies. This is

especially the case now because the foreign investment will boost the local CNMI economy, which is in a recession.

The Joint Applicants agree that the U.S. has a strong interest in safeguarding national security and enforcing U.S. laws. For that reason, even before they filed their FCC applications, the Joint Applicants initiated contact with the U.S. Department of Justice and related federal security agencies. The Joint Applicants support the petition to defer filed by these federal agencies and will cooperate and resolve any concerns these agencies may identify.

Contrary to Opposing Petitioners' speculative and unfounded arguments that the transaction will result in the discontinuance of services in violation of Section 214(a) of the Act, the Buyer has no plans to discontinue existing services. In fact, Buyer intends to expand and to enhance existing wireless, local, long distance, data, and broadband services through targeted capital investment in the near future. Furthermore, open markets and existing competition in the CNMI refute allegations that the Companies operate as a "virtual monopoly." Among others, interexchange carriers, competing wireless providers, and numerous prepaid card resellers have exercised their right to enter and to compete in the provision of CNMI telecommunications services.

This Joint Opposition also reaffirms that Buyer possesses the requisite technical, financial, and character qualifications to be a Commission licensee. The Buyer is acquiring not only the assets and facilities of the Companies, but also their seasoned and technically proficient personnel. Furthermore, the Buyer's proposed new CEO is an American citizen who worked for Verizon for over twenty years. Also, as discussed in its applications, Prospector Investment Holdings Inc. ("Prospector"), the fifty percent shareholder of Buyer, will take the lead role in managing the operations of the Companies. Its principals and employees gained significant

experience in founding and managing ISLACOM, which is now part of the second largest telecommunications company in the Philippines.

The Buyer also possesses sufficient financial qualifications to assume control of and to operate the Companies. Prospector currently carries a debt/equity ratio of less than 5% and is affiliated with Citadel Holdings, Inc., a company headquartered in the Philippines, which has a variety of business interests and which recently sold ISLACOM for \$60 million. Furthermore, Tan Holdings Corp., the controller of the thirty percent shareholder THC Communications Inc., is the largest private taxpayer and employer in the CNMI.

The arguments of the CNMI Governor and PCI/Startec regarding Buyer's character qualifications also are misplaced. As explained in detail in the text of this Joint Opposition, the Opposing Petitioners overemphasize temporally distant legal matters that involve entities or persons not involved in the control or day-to-day management of Buyer.

Finally, Section 254(g) of the Act does not, as a matter of law, authorize denial of, or conditions on, the proposed transfer of control in order to "safeguard rate integration." Contrary to Opposing Petitioners' assertions, there will be no violation of Section 254(g). Moreover, competitive forces already present in CNMI's telecommunications market provide significant price competition and will thus ensure that the Companies continue to offer services at competitive rates after the proposed transfer of control.

In sum, the Joint Applicants have clearly demonstrated that the proposed transaction is in the public interest.

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Bell Atlantic New Zealand Holdings, Inc. (“BANZHI” or “Seller”) and Pacific Telecom Inc. (“PTI” or “Buyer”) (collectively, the “Joint Applicants”), by their attorneys, hereby jointly oppose the Petitions to Deny filed by the Governor of the Commonwealth of the Northern Mariana Islands (“CNMI”), and purportedly filed by the Governor of Guam, the Senate of the CNMI and the House of Representatives of the CNMI, and reply to the Informal Comments of PCI Communications, Inc. (“Startec/PCI”) (jointly “Opposing Petitioners”). With the exception of the Governor of Guam (who, as explained below, withdrew his petition), these parties oppose the above-captioned applications which seek Federal Communications Commission (“FCC” or “Commission”) approval for the proposed transfer of control of certain Commission licenses and authorizations held by Micronesian Telecommunications Corporation (“MTC”) and its wholly-

owned subsidiary, GTE Pacifica Inc. (“GTE Pacifica”) (collectively, “the Companies”), both of which are headquartered in the CNMI.

In this opposition, the Joint Applicants demonstrate that the petitions to deny and informal comment objecting to the transfer applications have no procedural or substantive merit. In addition, the Joint Applicants note their full support for the Petition To Defer filed by the U.S. Department of Justice and Federal Bureau of Investigation, pending the agencies’ consideration of the national security, law enforcement, and public safety implications of the proposed transfer of control. As discussed below, the Joint Applicants proactively brought the proposed transfer of control to these agencies’ attention even before the FCC applications were filed and pledge their continued cooperation to address and resolve any concerns these agencies and other federal agencies may have.

I. THE PETITIONS TO DENY ARE PROCEDURALLY DEFECTIVE

A. Some of the Petitions Erroneously Imply That They Represent the Official Position of Relevant Governmental Bodies

At the outset, the Joint Applicants note that all four petitions to deny indicate that they were filed by local political entities. These petitions are influenced by local politics and may not be all that they appear to be.

Specifically, despite their titles, several of the petitions do not represent the official positions of the government bodies indicated. The filing captioned “Petition of the House of Representatives of the [CNMI] To Deny” was signed by only six of seventeen elected CNMI House representatives (the “Six CNMI Representatives”) and was not authorized by vote of the entire CNMI House. Similarly, the “Petition of the Senate of the [CNMI] to Deny or, in the Alternative, to Designate for Hearing” was not authorized by vote of the CNMI Senate and, was

signed only by a single CNMI Senator (“the CNMI Senator”).¹ Moreover, according to the most recent newspaper report, the CNMI Senator who filed the petition clarified “that his committee is not opposed to the issuance of a license to the Pacific Telecom consortium, which won the bid to take over the local operations of [the Companies].”² Finally, the Governor of Guam officially withdrew the filing captioned “Petition To Deny of the Governor of Guam” (“Guam Petition”) in his June 27, 2002 pleading filed in this docket.

Further, only the Governor of the CNMI (“CNMI Governor”) submitted a detailed petition to deny, and that pleading may have been influenced by local politics.³ As newspaper articles appended hereto as Exhibit B indicate, the other three petitions followed a single outline, at times borrowing verbatim from each other. In sum, the petitions to deny are less than they appear to be as to their motivation, substance and with respect to the official positions of elected officials in the region. Nevertheless, the Joint Applicants address the merits of the arguments raised, including those from the withdrawn Guam Petition.

¹ The petition was filed by CNMI Senator Diego M. Songao. In a letter to Senator Songao, however, CNMI Senator Ramon S. Guerrero (KUMOI) challenges whether the FCC submission was an official position of the Senate and raises concerns of a conflict of interest. *See* Letter from The Hon. Ramon S. Guerrero to The Hon. Diego M. Songao, dated June 21, 2002 and appended as Exhibit A.

² *See* Exhibit B. Articles from two different newspapers are included in Exhibit B. Tan Holdings Corporation, the ultimate parent of the 30 percent shareholder in the Buyer, operates the Saipan Tribune.

³ The Joint Applicants understand that the CNMI government has a minority interest in the United Micronesia Development Association (“UMDA”). UMDA lost out to the Buyer in the bidding process for the Companies and, thus, its investors might have a commercial interest in opposing the instant transfer applications.

B. The Petitions to Deny Fail To Establish a *Prima Facie* Case That the Proposed Transfer Would Not Serve the Public Interest

The Commission undertakes a two-step analysis in judging the sufficiency of every petition to deny.⁴ First, it determines whether the petition and its supporting affidavits contain specific allegations of fact sufficient to show that a grant of the application would be *prima facie* inconsistent with the public interest. During this step, the Commission assumes that the specific facts set forth by the complaining party are true, without reference to contrary evidence,⁵ provided the facts alleged are supported by the affidavit of a person with knowledge of the facts alleged.⁶ If a petition establishes a *prima facie* case, the Commission then determines whether, on the basis of the application, the pleadings, and other matters which it may officially notice, a substantial and material question of fact is presented. If there are no substantial and material questions, and the Commission is able to find that the application would be in the public interest, the application is granted.⁷ The filings by Opposing Petitioners fail to meet these basic legal standards.

Not one of the petitions to deny is supported by affidavits. Indeed, the Petitions contain little more than conclusory facts and third party allegations and, as a result, cannot serve to establish the required *prima facie* case.⁸ The Commission has long recognized that petitions to

⁴ See *Astroline Communications Co. v. FCC*, 857 F.2d 1556, 1561 (D.C. Cir. 1988).

⁵ See *id.* at 1561.

⁶ 47 C.F.R. § 1.939(d).

⁷ 47 U.S.C. § 309.

⁸ *Rocky Mountain Radio Co., LLP*, Memorandum Opinion and Order, 15 FCC Rcd 7166, 7167 (1999); *KOLA, Inc.*, Memorandum Opinion and Order, 11 FCC Rcd 14297, 14305 (1996), citing *Beaumont Branch of NAACP v. FCC*, 854 F.2d 501, 507 (D.C. Cir. 1988); *Texas RSA 1Ltd. Partnership*, Memorandum Opinion and Order, 7 FCC Rcd 6584, 6585 (1992).

deny that consist only of “ultimate, conclusionary facts or more general allegations on information and belief, supported by general affidavits . . . are not sufficient.”⁹ In short, the petitions should be summarily dismissed.¹⁰ Furthermore, as demonstrated below, the proposed transfer of control serves the public interest. Thus, the Commission should grant the Joint Applications.

II. OBJECTIONS TO THE PROPOSED FOREIGN OWNERSHIP ARE BASELESS

Opposing Petitioners argue that the proposed level of foreign ownership of the Companies is not in the public interest because it could adversely affect critical CNMI and regional infrastructure services and jeopardize national security interests of the United States. These arguments are unfounded.

⁹ *Gencom, Inc. v. FCC*, 832 F.2d 171, 180 n.11 (D.C. Cir. 1987), citing S.Rep. No. 690, 86th Cong., 1st Sess. 3 (1959).

¹⁰ The CNMI Governor’s call for a hearing must also be dismissed for the same reasons. *See VoiceStream Wireless Corp., Powertel, Inc. and Deutsche Telekom AG, for Consent to Transfer Control of Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act and Petition for Declaratory Ruling Pursuant to Section 310 of the Communications Act*, Memorandum Opinion and Order, 16 FCC Rcd 9779, 9791 n.60 (2001); *Ameritech Corp. and SBC Communications Inc., For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission’s Rules*, Memorandum Opinion and Order, 14 FCC Rcd 14712, 14951 (1999). The Commission is required to hold an evidentiary hearing only when a party demonstrates that granting an application would be *prima facie* inconsistent with the public interest and raises “substantial” and “material” questions of fact regarding the application. 47 U.S.C. §§ 309 (d), (e). The petitions, however, do not raise substantial and material questions of fact. As noted above, the filings do little more than present “legal and economic conclusions concerning market structure, competitive effect, and public interest” and “generalized and unsupported criticisms of the [PTI] venture, or of undisputed facts,” which “manifestly do not” require a live hearing. *United States v. FCC*, 652 F.2d 72, 89-90 (D.C. Cir. 1980) (en banc) (citations omitted).

A. The Proposed Foreign Ownership is Fully Consistent with Commission Policy and WTO Treaty Obligations

As fully explained in its Petition For Declaratory Ruling,¹¹ Buyer has three corporate investors, each with at least some foreign ownership from World Trade Organization (“WTO”) member countries.¹² Based upon the Commission’s “multiplier” procedures set forth in Section 63.09 of its rules,¹³ 72.1 percent of Buyer is considered indirectly owned by non-U.S. WTO citizens. Because the foreign ownership percentages may change involuntarily (due to the death of one of the beneficiaries of the trusts that ultimately control THC Communications Corporation), and to provide Buyer flexibility to bring in new WTO investors, Buyer requested permission to allow an additional indirect 15 percent foreign ownership, or a total of 87.1 percent indirect WTO foreign investment. As discussed in Buyer’s Petition For Declaratory Ruling, FCC approval of this indirect foreign ownership of U.S. common carrier radio licenses would be fully consistent with, and will promote, the Commission’s pro-competitive rules and policies.

¹¹ In the Petition for Declaratory Ruling, the Buyer seeks approval from the Commission for indirect foreign ownership of the wireless radio licenses held by the Companies in excess of the threshold set forth in Section 310(b)(4) of the Communications Act of 1934, as amended. *See* 47 U.S.C. § 310(b)(4).

¹² Prospector Investment Holdings, Inc. (“Prospector”) holds a 50 percent equity and voting interest. Prospector is incorporated under the laws of the Cayman Islands and controlled by citizens of the Philippines, both considered to be WTO member countries. THC Communications Corporation (“THC”) is a CNMI corporation that holds 30 percent of the equity and voting interest in the Buyer. THC is ultimately owned by various CNMI trusts, 93 percent of whose beneficiaries are CNMI/U.S. citizens, with 7 percent attributable to foreign citizens. Missouri Holdings Corporation (“Missouri”) is a CNMI corporation that holds the remaining 20 percent equity and voting interest in the Buyer. Missouri is controlled by its 100 percent owner, a citizen of both Canada and Great Britain (Hong Kong), both WTO Member countries.

¹³ 47 C.F.R. § 63.09.

In its *Foreign Participation Order*, the Commission concluded that allowing indirect foreign investment in common carrier radio licensees up to and including 100 percent would promote competition in the U.S. market, thereby serving the U.S. public interest.¹⁴ The Commission analyzes proposed indirect foreign investments in common carrier radio licensees “guided . . . by the U.S. Government’s commitment under the WTO Basic Telecommunications Agreement, which seeks to promote global markets for telecommunications so that consumers may enjoy the benefits of competition.”¹⁵ In particular, the Commission found that “the public interest will be served by permitting more open investment by entities from WTO member countries in U.S. common carrier wireless licensees.”¹⁶ Based on this principle, the Commission has adopted a “strong presumption that no competitive concerns are raised by [up to and including 100 percent] indirect foreign investment” from entities from WTO member countries.¹⁷

The Opposing Petitioners apparently disagree with the Commission’s pro-competitive policy to promote foreign investment in U.S. telecommunications enterprises. The CNMI Senator stated that he is “firm in [his] opposition to the foreign ownership of [the Companies].”¹⁸ Other petitioners offer more qualified oppositions but to the same effect, arguing that the Commission should set a ceiling on foreign ownership of U.S. telecommunications facilities, if

¹⁴ *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23898 (1997) (“Foreign Participation Order”).

¹⁵ *Aerial Communications, Inc. and Voicestream Wireless Holdings Corp.*, Memorandum Opinion and Order, 15 FCC Rcd 10089, 10093-94 (2000).

¹⁶ *Foreign Participation Order*, 12 FCC Rcd at 23940.

¹⁷ *VoiceStream Wireless Corp., or Omnipoint Corp. and Voicestream Wireless Holding Co.*, Memorandum Opinion and Order, 15 FCC Rcd 3341, 3348 (2000) (“VoiceStream Omnipoint Order”).

¹⁸ CNMI Senator at 2.

the facilities are not duplicated in every way by U.S.-owned competitors.¹⁹ Specifically, Opposing Petitioners claim that indirect foreign ownership of 72.1 percent in the Companies, with requested flexibility for 87.1 percent indirect foreign ownership, is “extraordinarily high and should not be permitted.”²⁰

However, the Commission has routinely endorsed indirect foreign investment as high as 100 percent by WTO member countries. Shortly before the release of the *Foreign Participation Order*, the Commission approved 100 percent indirect foreign ownership of common carrier radio licenses by Telecom Finland Ltd., a wholly-owned subsidiary of PT Finland, Ltd., a private holding company of the Government of Finland.²¹ More recently, the Commission approved 100 percent indirect foreign ownership of Telenor Satellite by Telenor ASA, a Norwegian company, which is 79 percent owned by the Kingdom of Norway; 100 percent indirect foreign ownership of GE Americom by SES Global, a Luxembourg company, which is 75.11 percent foreign-owned; and 100 percent indirect foreign ownership of VoiceStream Wireless by Deutsche Telekom AG, a German company, which is 77 percent foreign-owned, including 45 percent held

¹⁹ The Commission’s analysis is not changed by the fact that an incumbent local exchange carrier (“ILEC”) and/or a carrier with other “sole-source” facilities is involved. For example, the Commission approved the acquisition of Frontier Communications, an ILEC with multiple facilities in the continental United States, by Global Crossing, a Bermuda company subject to foreign ownership restrictions under Section 310(b)(4). In its decision approving this transaction, the Commission did not express any concern that Frontier was an ILEC – rather, the Commission applied the WTO entry standard to Global Crossing’s indirect ownership of Frontier and afforded Global Crossing the “strong presumption that no competitive concerns are raised by the foreign ownership at issue” *In re Global Crossing Ltd. And Frontier Corporation, Applications for Transfer of Control Pursuant to Sections 214 and 310(d) of the Communications Act, as amended*, Memorandum Opinion and Order, 14 FCC Rcd 15911, 15919 (1999).

²⁰ See Six CNMI Representatives at 2; Guam Petition at 7; CNMI Senator at 2.

²¹ See *Telecom Finland, Ltd., Petition for Determination of the Public Interest under 47 U.S.C. Sec. 310(b)(4) to permit LMDS and PCS Licensing*, Order, 12 FCC Rcd 17648 (1997).

by the German government.²² As part of the VoiceStream Wireless/Deutsche Telekom transaction, the Commission also approved ownership up to 85 percent by Deutsche Telekom and its German shareholders in two VoiceStream subsidiaries.²³ Further, the Commission has found that 80 percent indirect foreign ownership of INTELSAT and 65.1 percent indirect foreign ownership of Cellco Partnership by Vodafone were in the public interest.²⁴ Thus, far from being “potentially the largest percentage foreign ownership exception ever under Section 310 of the 1934 Act” as alleged,²⁵ the proposed percentages of indirect foreign ownership of 72.1 percent

²² See *Lockheed Martin Global Telecommunications, Comsat Corp., and Comsat General Corp. and Telenor Satellite Mobile Services, Inc., and Telenor Satellite, Inc., Applications for Assignment of Section 214 Authorizations, Private Land Mobile Radio Licenses, Experimental Licenses, and Earth Station Licenses, and Petition for Declaratory Ruling Pursuant to Section 310(b)(4) of the Communications Act*, Order and Authorization, 16 FCC Rcd 22897 (2001) (“Lockheed Martin”); *Application of General Electric Corp. and SES Global, For Consent to Transfer Control of Licenses and Authorizations Pursuant to Section 310(b)(4) of the Communications Act*, Supplemental Order, 16 FCC Rcd 18878 (2001) (“SES Global”); *Application of General Electric Corp. and SES Global, For Consent to Transfer Control of Licenses and Authorizations Pursuant to Section 310(b)(4) of the Communications Act and Petition for Declaratory Ruling Pursuant to Section 310(b)(4) of the Communications Act*, Order and Authorization, 16 FCC Rcd 17575 (2001); *VoiceStream Wireless Corp., Powertel, Inc. and Deutsche Telekom AG, for Consent to Transfer Control of Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act and Petition for Declaratory Ruling Pursuant to Section 310 of the Communications Act*, Memorandum Opinion and Order, 16 FCC Rcd 9779 (2001) (“VoiceStream Wireless”).

²³ See *VoiceStream Wireless*, 16 FCC Rcd at 9846-48.

²⁴ See *In re Applications of INTELSAT LLC; For Authority to Operate, and to Further Construct, Launch, and Operate C-band and Ku-band Satellites that Form a Global Communications System in Geostationary Orbit*, Memorandum Opinion and Order, 15 FCC Rcd 15460 (2000); *In re Application of Vodafone AirTouch, PLC, and Bell Atlantic Corp.; For Consent to Transfer of Control or Assignment of Licenses and Authorizations*, Memorandum Opinion and Order, 15 FCC Rcd 16507 (2000) (Vodafone itself was 47.43 percent held by Citizens of the United Kingdom, 36.05 percent held by citizens of North America, 7.8 percent held by citizens of other European countries, with the remainder held by citizens of other areas).

²⁵ Six CNMI Representatives at 2.

and 87.1 percent in the Companies are actually below, or approximately at, previously authorized levels.

In addition, the Commission has frequently granted licensees the flexibility to increase in the future their percentage of indirect foreign ownership by a specified amount without seeking additional FCC approval. For example, for McLeod USA, the Commission recently approved, in advance, indirect investment of up to 25 percent by any single non-U.S. investor or entity in addition to the current 46.84 percent authorized indirect foreign ownership by an Irish citizen.²⁶ The Commission also approved similar increases in *Lockheed Martin* and *SES Global*.²⁷ Therefore, the Buyer's request for the Commission to pre-approve an additional 15 percent

²⁶ See *Wireless Telecommunications Bureau and International Bureau Grant Consent For Transfer of Control of Licenses and Authorizations from McLeod USA, Inc., Debtor-In-Possession, to Forstmann Little and Co.*, Public Notice, 17 FCC Rcd 6111 (2002).

²⁷ See *Lockheed Martin*, 16 FCC Rcd at 22913 (approving additional, aggregate 25 percent indirect equity and/or voting interests from other unnamed non-U.S. investors, including non-Norwegians who might own Telenor ASA shares, except no single unnamed investor may acquire indirect ownership in excess of 25 percent without Commission approval); *SES Global*, 16 FCC Rcd at 18884-85 (approving additional, aggregate 25 percent indirect equity and/or voting interests without further Commission approval, although no single non-U.S. investor or entity may acquire indirect ownership in excess of 25 percent without approval). See also *VoiceStream Omnipoint Order*, 15 FCC Rcd at 3350 (2000) (approving up to and including 25 percent indirect foreign ownership in addition to current level of 30.6 percent foreign investment in proposed transferee); *Northeast Digital Networks, Inc.*, 14 FCC Rcd 6788 (1999) (granting authorization for an additional future 15 percent indirect foreign ownership above then-current level exceeding 25 percent by other foreign individuals or entities and granting existing alien shareholders authority to augment their ownership without reference to the 25 percent benchmark); *Spectrasite Holdings, Inc.*, 14 FCC Rcd 13344 (1999) (granting authorization to foreign individuals to hold an additional 15 percent indirect equity interest above current 30 percent foreign indirect ownership and authorizing any additional future foreign ownership by named individuals); *CNG Communications, Inc.*, 14 FCC Rcd 4996 (1999) (granting authorization for additional 15 percent indirect foreign ownership above then-current level exceeding 25 percent due to fluctuations in publicly-traded shares and authorizing any additional future foreign ownership by any of the current shareholders).

indirect WTO investment above the initial 72.1 percent is fully in accord with Commission precedent.²⁸

Opposing Petitioners also raise issues regarding the ultimate individual investors in the Buyer. The CNMI Governor and the Six CNMI Representatives, for example, alleged that there is insufficient information in the record to determine the exact amount of the foreign ownership interests in the Tan Family Trusts.²⁹ In fact, the Joint Applicants have provided detailed information in their various applications and Form 602 Ownership Disclosure.

Moreover, the Commission has stated that it will rely on applicants' representations in their applications,³⁰ and the Opposing Petitioners have provided no rationale why the Commission should not follow its settled policy in this case. Indeed, Applicants have no incentive to minimize the stated amount of foreign ownership because, as described above, Commission policy authorizes as much as 100 percent indirect WTO ownership.

Startec/PCI charges that Prospector's incorporation in the Cayman Islands is designed to disguise foreign investment outside the presumption established for WTO entities and requests that the actual citizenship of these major investors be revealed.³¹ Buyer, in fact, included this information in its Petition for Declaratory Ruling, stating that the owners of the Cayman Islands

²⁸ Contrary to the claim of the Six CNMI Representatives, the Buyer expressly limited its request for flexibility for additional indirect foreign ownership to entities from WTO member countries. Six CNMI Representatives at 3; Petition for Declaratory Ruling at 8.

²⁹ CNMI Governor at 22-23; Six CNMI Representatives at 4.

³⁰ *See Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructions Television Fixed Service Licenses; Reexamination of the Policy Statement on Comparative Broadcast Hearings; Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases*, First Report and Order, 13 FCC Rcd 15920, 15979 (1998).

³¹ Startec/PCI at 1; Six CNMI Representatives at 3.

corporation are both citizens of the Philippines.³² Also, as explained in the Petition for Declaratory Ruling, both the Cayman Islands and the Philippines are WTO member countries.³³

Finally, it should be noted that even with indirect foreign ownership of 72.1 percent, the Companies themselves will be operated and managed entirely by U.S. citizens. The only addition to the Companies' current officers (all U.S. citizens) that Buyer will make is to install Robert Anderson, a U.S. citizen with forty years of experience in telecommunications, including more than twenty years of experience at Verizon and NYNEX, as the chief executive officer of MTC. For these additional reasons, the expressed concerns regarding foreign ownership and control are without merit.³⁴

B. The Joint Applicants Initiated Contacts with Relevant Federal Agencies Even Before the FCC Applications were Filed to Ensure that Valid National Security and Law Enforcement Concerns are Addressed in Full

The Opposing Petitioners also claim that the proposed transfer of control to a company with foreign ownership would compromise our nation's national security and law enforcement ability. The Joint Applicants agree that the U.S. has a strong interest in safeguarding national

³² Petition for Declaratory Ruling at 4. The Six CNMI Representatives state that there is a "compelling" question regarding "Prospector's motivation to incorporate in the Cayman Islands," but the Buyer cannot respond substantively because the petitioners fail to explain what the "compelling question" is. Six CNMI Representatives at 3. Clearly, however, Prospector's motivation is not to hide its foreign ownership; the Buyer has set forth the relevant issues in detail in its petition.

³³ Petition for Declaratory Ruling at 5-6. As WTO Members, the Cayman Islands and the Philippines are entitled to the presumption that no competitive concerns are raised by their indirect foreign investment in the Companies. The Opposing Petitioners have not presented any evidence to rebut this presumption. Miscellaneous concerns relating to the alleged difficulty of auditing the foreign investors in the Buyer are speculative and entirely irrelevant to the presumption in favor of market entry by investors from WTO member countries. *See* Six CNMI Representatives at 3.

³⁴ One half of the Buyer's Board of Directors currently is comprised of U.S. citizens.

security and enforcing U.S. laws. Thus, even before filing the transfer of control applications with the FCC, the Joint Applicants proactively contacted a U.S. Department of Justice (“DOJ”) official responsible for coordinating an inter-agency group including the Federal Bureau of Investigation (“FBI”) and the U.S. Department of Defense (“DOD”) (collectively, “the Federal Security Agencies”). Since that initial contact, the Joint Applicants have continued their correspondence and discussions with the Federal Security Agencies, kept the Federal Security Agencies fully apprised of the status of the FCC proceedings, and supplied the Federal Security Agencies with the supplemental information they requested. The DOJ and FBI expressly acknowledged these contacts by the Joint Applicants in their Petition to Defer.³⁵ The information provided to the Federal Security Agencies includes details on the proposed new ownership, the services and facilities currently provided by the Companies, and the fact that the Companies’ wireline facilities already are 100 percent CALEA compliant.

The Joint Applicants pledge their continued cooperation with the Federal Security Agencies and thus support the Petition To Defer filed by the DOJ and FBI. In the event the Federal Security Agencies identify national security or law enforcement concerns, the Buyer further pledges to enter into an appropriate agreement to resolve those concerns.

III. COMMISSION APPROVAL OF THE PROPOSED TRANSFER OF CONTROL WOULD SERVE THE PUBLIC INTEREST

In accordance with its obligations under Sections 310(d) and 214 of the Communications Act, the Commission must determine whether approval of the proposed transfers of control will serve the public interest, convenience and necessity.³⁶ Opposing Petitioners assert that the

³⁵ Petition To Defer of U.S. Department of Justice and Federal Bureau of Investigation at 3.

³⁶ 47 U.S.C. §§ 214, 310(d).

proposed transaction is not in the public interest because the Joint Applicants have failed to demonstrate that the Buyer has the requisite technical, financial or character qualifications to be a Commission licensee.³⁷ As demonstrated below, Opposing Petitioners' arguments are without merit.

A. The Buyer's Entry to the CNMI Telecommunications Market Will Benefit Consumers

The Opposing Petitioners argue, *inter alia*, that the proposed transaction is not in the public interest because the proposed transfer "will necessarily result in the discontinuance" of MTC services in violation of Section 214(a) of the Communications Act. This argument is speculative and unfounded.

Buyer has stated in no uncertain terms in its Petition For Declaratory Ruling that it "proposes no reduction in services by GTE Pacifica and, in fact, proposes to increase the overall telephone penetration rates in the CNMI."³⁸ This statement applies equally to MTC. Indeed, Buyer has a strategy of making focused and aggressive capital expenditures in order to expand the Companies' existing high quality services at attractive rates.³⁹ Simply put, Buyer views the Companies as strategic assets critical to its goal of becoming the most technologically innovative telecommunications provider in the Western Pacific.

³⁷ Six CNMI Representatives at 2-4; CNMI Senator at 3; CNMI Governor at 16-22; Startec/PCI at 2-3.

³⁸ Petition for Declaratory Ruling at 7.

³⁹ See attached declaration of George Chiu, Exhibit C (selected portions of the Joint Applicants' supplemental filing with the Commonwealth Telecommunications Commission or "CTC"), and Exhibit D (Joint Applicant's June 13, 2002, presentation to the CTC).

Buyer intends to continue investment in and expansion of the Companies' services. For example, the Buyer is determined to expand the existing wireline business by increasing the level of subscribership through high quality services at affordable rates.⁴⁰

Further, GTE Pacifica already operates the largest digital wireless network serving the CNMI. Buyer's goal is to increase capacity and coverage by 60 percent within 24 months of the consummation of the proposed transfer of control. In addition, Buyer plans to expand aggressively the Companies' customer base by offering wireless services at reasonable prices with the widest reach.⁴¹

In the long distance arena, Buyer will expand carrier relationships by at least three additional relationships immediately after closing of the transfer. Prepaid services will continue to be attractively priced and aggressively marketed. Customized call plans will be tailored to fulfill the diverse needs of the CNMI's population. Buyer also has plans to invest heavily in fiber optic capacity from the U.S. mainland in order to become a regional hub. Looking to the future, Buyer will be rolling out Digital Subscriber Line (DSL) Service as a mass market product.⁴²

In sum, Opposing Petitioners are wrong to suggest that Buyer's acquisition of the Companies will result in the reduction of services.⁴³ To the contrary, the public interest will be served by Buyer's commitment to expand and to enhance existing services through targeted capital investments. This commitment is especially significant here because the CNMI

⁴⁰ See Exhibits C and D.

⁴¹ See *id.*

⁴² See *id.*

⁴³ In any event, if PTI later would decide to discontinue services subject to Section 214 of the Act, it would comply with the FCC's regulations to apply for the appropriate authority.

economy, which currently is in the midst of a recession, will receive a needed boost from Buyer's increased investment in the telecom sector.

B. The CNMI Market Is, and Post-Transfer Will Be, Competitive

Some of the petitioners incorrectly assert that the Companies operate as a “virtual monopoly” in CNMI's local and long distance markets⁴⁴ and thus object to Buyer's acquisition of these companies without “provisions to foster competition.”⁴⁵ It is undisputed that the Commission's pro-competitive, open-entry policies apply equally to the CNMI and Guam. These telecommunications markets already are, and post-transfer will continue to be, open to competition. In fact, competitors have exercised their right to enter the CNMI market and compete with the Companies.

Specifically, Startec/PCI—one of the Opposing Petitioners—is a self-described “full-service telecommunications company that has been doing business in Guam and CNMI for almost two decades.”⁴⁶ In addition, three other Inter-Exchange carriers (“IXCs”)—IT&E Overseas, Inc. (“IT&E”), TelePacific Network, Inc. (“TNI”) and WorldCom (“WCOM”)—compete with both the Companies and Startec/PCI for CNMI customers. There are also numerous prepaid card resellers that offer competing 1-800 long distance services via Sprint and AT&T networks through correspondent relationships with the Companies. In addition, several

⁴⁴ The Companies do business in the CNMI and Guam under the names Verizon Micronesia and Verizon Pacifica.

⁴⁵ CNMI Six Representatives at 2; CNMI Senator at 2; CNMI Governor at 17; Startec/PCI at 2-3 (requesting that the Commission “entertain ideas to establish stipulations from the prospective investors”). Startec/PCI also claims that MTC should have described itself as both an ILEC and an Inter-Exchange Carrier. Startec/PCI at 2. The Joint Applicants did just that. Joint Application for Transfer of Control of International Section 214 Authorizations at 2; Joint Application for Transfer of Control of Domestic 214 Authority at 2.

⁴⁶ Startec/PCI at 1.

voice-over-Internet Protocol (“IP”) card providers operate in the CNMI; notably, IT&E operates a successful service that bypasses the local loop using IP technology.⁴⁷

In the wireless market, Saipancell is a competing provider offering cellular and paging services with its extensive microwave network on Saipan.⁴⁸ In addition, IT&E and Guam Telephone Authority have cellular roaming agreements in place with GTE Pacifica to serve customers in CNMI. Finally, Motorola operates a radio communication service on Saipan, and RadioCom operates a paging and an 800 MHz trunked SMR system on Saipan.

The wireless providers also provide competition in local loop services. In addition, Saipancell recently filed a petition with the Commission requesting to be designated as an Eligible Telecommunications Carrier (“ETC”) and to disaggregate the Micronesian Telephone Company’s (“MTC’s”) service area.⁴⁹ Saipancell indicates that grant of its request would make Saipancell eligible to receive federal universal service support for wireless local service offered in Saipan—enabling it to offer consumers a “choice of basic service providers...[and] bring

⁴⁷ As a result of this competition, MTC and GTE Pacifica’s direct dial service accounted for only 14% of total (non-Internet) inter-exchange traffic during the 2001 calendar year. The four other IXC’s serving the CNMI handled 27% of such traffic and the remaining 60% of all access minutes billed were handled by the numerous 1-800 services. Similarly, for the first five months of the year 2002, the Companies’ direct dial traffic amounted to only 11% of the total market for access minutes whereas 1-800 traffic totaled 53% and the four competing interexchange carriers provided 36% of all minutes.

⁴⁸ CNMI Governor at 9 (acknowledging that some “wireless service alternatives exist in the commonwealth”).

⁴⁹ *Guam Cellular and Paging, Inc. d/b/a Saipancell Petition for Designation as an Eligible Telecommunications Carrier on the Island of Saipan in the Commonwealth of the Northern Mariana Islands*, CC Docket No. 96-45 at 1, 11-14 (filed Feb. 19, 2002). Saipancell seeks redefinition of MTC’s service area to enable it to be designated as an ETC only for the island of Saipan.

competitive services to customers.”⁵⁰ Thus, because the CNMI telecommunications market is open and competition already exists, the Commission should reject the Opposing Petitioners’ requests for special conditions designed to introduce such competition.

Certain Opposing Petitioners also question the prudence of transferring control of “sole-source” facilities to non U.S.-nationals.⁵¹ As discussed previously, the Joint Applicants already are addressing the national security concerns with the interested federal agencies. The Guam Petition also suggests that the proposed change in ownership of the submarine cable with landing points in the CNMI and Guam would not serve the public interest because it is the *sole* cable connecting these U.S. overseas islands.⁵² This suggestion ignores the facts that the cable was not even constructed until 1997 and is not the only means of communications between the Islands.⁵³ Moreover, Guam is a major cable landing hub, evidencing that other providers in the region have the opportunity to construct a competing cable. In this instance, the Companies took a risk by making an initial \$15 million expenditure to lay the cable, an investment which ensured CNMI consumers access to off-island communications during inclement weather and broadband service

⁵⁰ Reply Comments of Guam Cellular and Paging, Inc., CC Docket No. 96-45 at 4 (filed June 17, 2002). Although redefinition of MTC’s service area would not serve the public interest, MTC does not object to Saipancell’s designation as an ETC if it serves the entire MTC service area, which is comprised of three islands—Saipan, Tinian and Rota. Opposition of the Micronesian Telephone Company, CC Docket No. 96-45, at 4-6 (filed Apr. 22, 2002).

⁵¹ CNMI Governor at 5; CNMI Six Representatives at 2; CNMI Senator at 2.

⁵² Guam Petition at 6-7.

⁵³ Both IT&E and WCOM operate satellite circuits jointly with Verizon Pacifica. While satellite service is not a perfect substitute to cable transport, the Commission has identified “cable and satellite [capacity as] fungible technologies utilized in the transmission of international service.” *Comsat Corporation Petition Pursuant to Section 10(c) of the Communications Act of 1934, as amended, for Forbearance from Dominant Carrier Regulation and for Reclassification as a Non-Dominant Carrier*, Order and Notice of Proposed Rulemaking, 13 FCC Rcd 14083, 14103 (1998) (“Comsat Non-Dominance Order”).

at lower rates than available for satellite circuits.⁵⁴ In addition, the failure of other entities to construct facilities does not inhibit competition in the CNMI market through access to the Companies' facilities. Startec/PCI would have the Commission believe that there is "no realistic ability for other U.S. telecom companies to establish competition by gaining access to key facilities."⁵⁵ In fact, however, Startec/PCI operates a point-of-presence ("POP") facility and—along with the three other IXC—receives monthly bills for exchange access service to the CNMI local exchange network to complete interexchange voice or data transmissions. Furthermore, in accordance with the Telecommunications Act of 1996, Buyer will continue to provide these and future competitors with access to its LEC facilities.

In any event, the extent to which interexchange facilities are deployed in the CNMI is—as in the continental U.S.—marketplace driven.⁵⁶ This is not the proceeding to determine if existing facilities are adequate. On the other hand, allowing the existing cable to be acquired by PTI—a company dedicated to improving the provision of communications services to consumers in part by maximizing efficient use of the cable—will serve the public interest.⁵⁷

⁵⁴ Indeed, MTC and GTE Pacifica assumed this burden after the company originally awarded rights to build the cable became financially defunct.

⁵⁵ Startec/PCI at 2.

⁵⁶ CNMI Governor at 8 (noting that "the small population and physical size of the Commonwealth" constrains the development of telecommunications infrastructure). The population of the CNMI is less than 70,000 people.

⁵⁷ Certain of the Opposing Petitioners also raise allegations of non-compliance with local regulatory rules by the Companies that are both untrue and inappropriate in this proceeding. For example, Startec/PCI alleges that MTC has "failed to report and publish tariffs" and "charges all potential competitors, including Startec/PCI, a surcharge...on all inter-island calls." Startec/PCI at 2. To the contrary, the Companies publish tariffs on their website and comply with applicable rate requirements. Available at <http://www.gtepacifica.net> (last visited June 28, 2002). Contrary to the CNMI Senator's allegation that the Companies have not complied with local CNMI law requirements for uniform and non-discriminatory pricing,

C. Pacific Telecom Is Technically Qualified

Several of the Opposing Petitioners challenge Buyer's technical qualifications.⁵⁸ The challenges are baseless.

First, the proposed transaction would result in the transfer of control of operating telecommunications companies MTC and GTE Pacifica. The Buyer proposes to acquire not only the stock and the facilities, but the ongoing business operations, including all associated personnel. As stated previously, the entire management team of the Companies is staying on, and the Buyer is hiring as its new CEO, Robert Anderson, an American citizen who is an ex-Verizon employee of over twenty years, with forty years of telecommunications experience.⁵⁹ In other words, under its new ownership the Companies will have a seasoned management team technically proficient in the operation of the telecommunications facilities at issue. The Joint Applicants also expect to negotiate an agreement pursuant to which Seller would offer Buyer certain technical and support services for a period of time.

In addition to this continuity of technical expertise, and contrary to the unfounded claims of the Opposing Petitioners,⁶⁰ Buyer will add substantial telecommunications experience,

(Continued...)

MTC has supplied the Commonwealth Telecommunications Commission ("CTC") with a published tariff meeting the requirements of Public Law 12-39 and the full requirements of the CTC. CNMI Senator at 3. Furthermore, the FCC generally refuses to reevaluate the qualifications of the transferor when granting transfers of control, and should not do so here. *In re Global Crossing Ltd. And Frontier Corporation; Applications for Transfer of Control Pursuant to Sections 214 and 310(d) of the Communications Act, as amended*, Memorandum Opinion and Order, 14 FCC Rcd 15911, 15915 (1999) ("Global Crossing/Frontier Order").

⁵⁸ CNMI Governor at 18-19, Six CNMI Representatives at 4; CNMI Senator at 3.

⁵⁹ See Exhibit C.

⁶⁰ CNMI Governor at 18; Six CNMI Representatives at 4.

enabling the Companies to provide improved services to consumers in the CNMI.⁶¹ As discussed in the Petition For Declaratory Ruling, Prospector will take the lead in managing the operations of the Companies based on the significant experience Prospector's principals and employees gained in the founding and management of ISLACOM, which is now part of the second largest telecommunications company in the Philippines, Globe Telecom.

In founding ISLACOM and growing its business, the Prospector representatives gained significant experience in (1) working with local regulators, (2) raising the necessary capital to construct facilities, (3) managing the build out of their network through successful turn key contracts with established international vendors such as Siemens, Alcatel and Lucent, (4) cooperating with other carriers such as PLDT, the Philippines dominant carrier, and (5) working with local government officials to obtain needed rights-of-way, government permits, etc. Although ISLACOM was at least ten times as large as the Companies to be acquired here, the Prospector representatives were able to run multiple lines of telecommunications operations (GSM wireless network, paging network, long distance, and LEC) efficiently to provide new service offerings to the Philippines people.

As the preceding indicates, therefore, Buyer has all the necessary technical qualifications to control and manage the Companies and thus ensure continued high-quality service to consumers.

⁶¹ The majority owner of Prospector, Ricardo C. Delgado, was the Chairman of ISLACOM for six years; a Prospector employee, Jovino G. Lorenzo, was the President for four years; and the minority owner of Prospector, Jose Ricardo Delgado, was the Vice President of Marketing for four years. *See also* Petition for Declaratory Ruling at 4-5.

D. Pacific Telecom Is Financially Qualified

The CNMI Governor claims that Buyer has not demonstrated its financial qualifications.⁶² This claim is unfounded, as review of the application demonstrates. As described in the Petition For Declaratory Ruling, fifty percent shareholder Prospector is affiliated with Citadel Holdings, Inc., ("Citadel") a company headquartered in the Philippines, which has a variety of business interests that include transportation operations, logistics and information services. Citadel owns, among other business ventures, the largest airport services company in the Philippines.⁶³ Citadel sold ISLACOM for approximately \$60 million in 1999, and Prospector's debt/equity ratio is less than 5 percent.

Additionally, the thirty percent shareholder, THC Communications, is controlled by Tan Holdings Corporation, a diverse holding company that operates in more than a dozen industries in the Western Pacific. Tan Holdings, founded in 1972, is now the largest private taxpayer and employer in the CNMI. Twenty percent shareholder, Missouri Holdings Corporation, is controlled by Managing Partner, Michael Leung, who, among other things, holds an 18 percent, non-controlling stake in People's Cellular, a cellular carrier in Hong Kong.

Clearly, Buyer has the requisite financial backing to continue and to expand the Companies' existing high quality operations. Buyer stands ready, however, to respond to any specific requests for financial qualification information that the Commission might have.

⁶² CNMI Governor at 21.

⁶³ Petition For Declaratory Ruling at 4.

E. Pacific Telecom Satisfies the Commission’s Character Qualification Requirements

The CNMI Governor and Startec/PCI challenge PTI’s character qualifications to be a Commission licensee.⁶⁴ Specifically, the CNMI Governor refers to testimony before the U.S. House of Representatives in 1999 to the effect that Tan Holdings Corp. pled guilty to a felony charge for a crime of dishonesty under federal law.⁶⁵ The CNMI Governor also asserts that Tan Holdings Corp. is a defendant in an ongoing class action litigation filed on behalf of garment workers.⁶⁶ Startec/PCI simply attaches two newspaper articles as evidence that Tan Holdings Corp. “has engaged in monopolistic practices and has often run afoul of US government regulations.”⁶⁷ The arguments of the CNMI Governor and Startec/PCI are misplaced and overemphasize the significance of these two legal matters. Joint Applicants demonstrate below that these issues are insufficient to show that PTI lacks the requisite character qualifications to be a Commission licensee.

The Commission has determined that it will examine an applicant’s character qualifications on a case-by-case basis, and will generally consider non-FCC *adjudicated* felonies, as well as a number of mitigating factors, including:

. . . the willfulness, frequency, and **currency of the misconduct; the positional nature of the wrongdoer and the involvement of management officials**; the care taken by the applicant to forestall such misconduct prior to its occurrence; the nature, extent and promptness of **the corrective measures taken subsequent to the**

⁶⁴ See CNMI Governor at iv, 17, 19-20; Startec/PCI at 2, Attachment 1, Attachment 2.

⁶⁵ CNMI Governor at 19-20.

⁶⁶ *Id.* at 20.

⁶⁷ Startec/PCI at 2, Attachment 1, Attachment 2.

misconduct's occurrence; and the applicant's record of compliance with [the FCC's] rules and policies, if any.⁶⁸

Further, the Commission has indicated that it will not consider the misconduct of related entities relevant to an applicant's character ". . . unless there is a sufficient nexus between the [applicant] and the [related] company"⁶⁹ In determining whether such a nexus exists, the Commission has indicated it will consider whether the principals of the entity involved in the adjudicated misconduct will be involved in the control of the activities of the applicant.⁷⁰ Under these standards, the L&T plea of *nolo contendere* should not influence the Commission's assessment of PTI's character qualifications.

Specifically, the testimony before the U.S. House of Representatives cited by the CNMI Governor does not include all of the pertinent facts. In 1991, over ten years ago, L & T International Corporation ("L&T"), a company founded and headed by Mr. Siu Lin Tan and owned by Tan Holdings Corp., was the subject of an indictment brought by the United States

⁶⁸ Stockholders of RCA Corp. (Transferors) and General Electric Co. (Transferee), For Transfer of Control of RCA Corporation and its Wholly-Owned Subsidiary, National Broadcasting Company, Inc., Memorandum Opinion and Order, FCC 86-285, 60 RR 2d 563, ¶ 15 (1986) ("GE MO&O")(emphasis added); see also Policy Regarding Character Qualifications in Broadcast Licensing, Policy Statement and Order, 5 FCC Rcd 3252, ¶ 5 (1990) ("Character Policy Statement – 1990") citing Policy Regarding Character Qualifications in Broadcast Licensing, Policy Statement and Order, 102 FCC 2d 1179, 1227-29 (1986) ("Character Policy Statement – 1986) (discussing mitigating factors), recon. granted in part, 1 FCC Rcd 421 (1986), modified by, 5 FCC Rcd 3252 (1990), recon. granted in part, 6 FCC Rcd 3448 (1991), petitions to suspend granted, 6 FCC Rcd 4787 (1991), correction, 6 FCC Rcd 5017 (1991), further recon. granted in part, 7 FCC Rcd 6564 (1992).

⁶⁹ *Policy Regarding Character Qualifications in Broadcast Licensing*, Memorandum Opinion and Order, 7 FCC Rcd 6564, ¶ 16 (1992) ("Character Policy Statement – 1992") (discussing "nexus" analysis in context of reporting requirements) citing *Character Policy Statement 1986*, 102 FCC 2d at 1218-19, *on recon.*, 1 FCC Rcd 421, 423 (affirming substantial nexus approach as a "reasonable basis" for considering misconduct of parent or related companies).

⁷⁰ *Character Policy Statement 1992*, 7 FCC Rcd at ¶ 14.

Department of Labor regarding violations of the Fair Labor Standards Act. Ultimately, L&T entered a plea of *nolo contendere* to a violation of 18 U.S.C. § 1001, for allegedly making a false statement to the federal government, was fined \$500,000 and placed on three years probation.⁷¹ Neither Siu Lin Tan nor other members of the Tan family were charged.

L&T's probation included a requirement of compliance with extensive reporting and payroll monitoring requirements.⁷² Not only did L&T complete its probation period without incident; but since expiration of the mandatory payroll monitoring and reporting requirements, L&T has voluntarily continued an independent audit by Deloitte and Touche and provided copies of the report to the Department of Labor.

L&T also has established a legal department to insure compliance with all labor laws. Indeed, in the more recent past Tan Holdings Corp. has been repeatedly commended by the Regional Director of the Occupational Health and Safety Administration ("OSHA") as being a "model" company. Further, Tan Holdings Corp. is a member of "Excellence 2000" a partnership with OSHA focused on developing an internal workplace safety and health effort in furtherance of OSHA policies and guidelines.

As discussed below, in light of the true circumstances surrounding this matter, L&T's plea agreement does not support a finding that PTI lacks the requisite character qualifications to hold a Commission license.

First, a plea of *nolo contendere* to a felony is not an adjudication of that matter and therefore should not be given significant weight in considering PTI's character qualifications. Pleas of *nolo contendere* are the equivalent of un-litigated consent orders which may not later be

⁷¹ The plea agreement is appended hereto as Exhibit E.

⁷² See *id.*

used to prove the truth of the underlying alleged violations.⁷³ Further the Commission has stated that it “will not sanction inquiry into an applicant’s qualifications on the basis of alleged criminal activity *unless it results in a conviction* or adverse civil decision.”⁷⁴

Second, the relationship between L&T and PTI is attenuated. L&T, the entity which entered the plea, is owned by Tan Holdings Corp. Tan Holdings Corp., in turn, indirectly holds a 30% interest in PTI through THC Communications Corp. Further, while THC Communications Corp. will have “negative control” of PTI under Commission standards due to a shareholders’ agreement,⁷⁵ neither Tan Holdings Corp. nor Siu Lin Tan will have voting or day-to-day control over PTI. Pursuant to the management agreement, Prospector will have complete managerial control over the daily operations of the Companies. Neither Tan Holdings Corp. nor the Tan family has any ownership interest in Prospector.

Third, the conduct by L&T referred to by the Governor occurred over ten years ago. The Commission has imposed a ten-year limitation upon its consideration of allegations of past misconduct.

⁷³ Cf. FED. R. EVID. 410; *Lipsky v. Commonwealth United Corp.*, 551 F.2d 887, 893-94 (2d Cir. 1976); *Beatrice Foods Co. v. F.T.C.*, 540 F.2d 303, 312 (7th Cir. 1976).

⁷⁴ *IT&E Overseas, Inc.*, 4 FCC Rcd 3774, 3775 ¶ 13 (MSD 1989) (emphasis supplied); *see also Character Qualifications Policy Statement 1986*, 102 FCC 2d at 1205 (“We will not take cognizance of non-FCC misconduct involving criminally fraudulent misrepresentations, alleged criminal activity and antitrust or anticompetitive misconduct unless it is adjudicated. In this regard, there must be an ultimate adjudication by an appropriate trier of fact, either by a government agency or court, before we will consider the activity in our character determinations.”). While the Commission has stated that *convictions* based upon pleas of *nolo contendere* are relevant to its character analysis, *Character Qualifications Policy Statement 1986*, 102 FCC 2d at 1205, n.64, the L&T *plea agreement* should not be given weight in this matter for the reasons set forth herein.

⁷⁵ As stated throughout the transfer applications, THC Communications Corp., only has the authority to elect fifty-percent of the board of directors of MTC – *i.e.*, authority to exercise negative control over the board, but not the day-to-day operations of the Companies.

As to the time period relevant to character inquiries, we find that . . . even as to consideration of past conduct indicating ‘a flagrant disregard of the Commission’s regulations and policies,’ a ten year limitation should apply. The ‘inherent inequity and practical difficulty’ involved in requiring applicants to respond to allegations of greater age suggests such time limits be imposed.⁷⁶

For these reasons, the Joint Applicants submit that the existence of the L&T plea agreement does not render PTI unqualified to hold the subject Commission licenses.

The class action lawsuit referred to by the CNMI Governor is also not relevant to Buyer’s character qualifications. The case was filed against 22 garment manufacturers, including subsidiary companies of Tan Holding Corp., as well as virtually all major U.S. apparel retailers.⁷⁷ As above, neither Tan Holdings Corp. nor the Tan family are defendants in this proceeding. The complaint contains a variety of claims alleging that the retailers and manufacturers conspired to violate various laws relating to the employment of nonresident workers in Saipan. The complaint also alleges that manufacturers charge employees too much for housing and food and that employee movement outside the plants and housing is improperly restricted.⁷⁸ The defendant subsidiaries of Tan Holdings Corp. as well as other retail and manufacturer defendants deny these allegations and are vigorously defending this suit.

⁷⁶ *Character Policy Statement 1986*, 102 FCC 2d at 1229 (1986) (citation omitted); *see also GE MO&O*, FCC 86-285, 60 RR 2d at ¶ 18 (recognizing that non-FCC misconduct giving rise to felony conviction occurred more than ten years prior to FCC action, and therefore was subject to the time limitation); *Contemporary Media, Inc.*, Decision, 13 FCC Rcd 14437, n. 2 (1998) (recognizing ten year limitation), *aff’d*, 14 FCC Rcd 8790, *aff’d sub nom.*, *Contemporary Media, Inc. v. FCC*, 214 F.3d 187 (D.C. Cir. 2000), *cert. denied*, 532 U.S. 920 (2001).

⁷⁷ The complaint is well over 100 pages long and Joint Applicants have not attached it to avoid burdening this pleading with such a long exhibit. Joint Applicants will, however, provide the Commission a copy of the complaint upon request.

⁷⁸ A substantial portion of the more sensationalized claims alleged in the complaint have been dismissed by the U.S. District Court.

This litigation is irrelevant to PTI's character qualifications. This matter is still pending before the Court. As discussed above, it is the Commission's long-held position that pending litigation is irrelevant to its character analysis. There "must be an ultimate adjudication before an appropriate trier of fact, either by a government agency or court, before we will consider the activity in our character determinations."⁷⁹

Finally, Joint Applicants note that the same character issues raised by the CNMI Governor and Startec/PCI were addressed by the Department of Transportation ("DOT") in approving in 1998 the Applications of Aero Micronesia d.b.a. Asia Pacific Airlines ("APA") for Certificates of Public Convenience and Necessity for domestic and international charter air transportation.⁸⁰ APA is 92.5 percent owned by Consolidated Transportation Services, Inc. which is a wholly owned subsidiary of Tan Holdings Corp.

In reviewing the application the DOT conducted a fitness review in which it assessed "the compliance disposition" of APA. The "compliance disposition" is a determination of an entity's propensity to comply with the governing statute and regulations of the DOT, a standard which is substantially similar to some of the Commission's character qualification criteria. The DOT approved APA's application for operating authority, initially for one year and then permanently, after carefully reviewing the identical matters raised by the Office of the Governor and Startec/PCI. Relevant to DOT's findings was the fact that the conduct at issue did not involve

⁷⁹ *Character Policy Statement 1986*, 102 FCC 2d at 1205 (1986); *see also Character Policy Statement – 1990*, 5 FCC Rcd at ¶ 7. Furthermore, the Commission has determined it will not consider consent decrees in civil litigation. *See Character Policy Statement 1986*, 102 FCC 2d at 1205, n. 63 (1986); *In re Applications of Interactive Control Two, Inc., Wincom Corp., U.S. Telemetry-New Brunswick, Inc., U.S. Telemetry Lancaster*, Order on Reconsideration, DA 01-2504, ¶ 21 (2001).

⁸⁰ DOT Order to Show Cause Proposing Issuance of Certificate Authority, Order 98-9-20, A copy of the DOT order is appended hereto as Exhibit F.

the individuals responsible for the management and operation of APA and the fact that the alleged violations occurred more than 10 years ago.⁸¹

In granting the permanent license DOT addressed the pending litigation. Specifically, DOT concluded:

The carrier appears to be conducting its operations in a satisfactory manner, and there is no indication that any of the pending class action suits involving related companies are indicative of Asia Pacific's compliance disposition.⁸²

As discussed above, these same factors which satisfied the DOT as to APA's compliance disposition exist here and similarly militate against finding PTI unqualified to hold the subject licenses.

IV. THE PROPOSED TRANSFER OF CONTROL DOES NOT VIOLATE THE RATE INTEGRATION PRINCIPLES IN SECTION 254(G) OF THE ACT

Certain Opposing Petitioners express concern that the proposed transfer of control will violate the rate integration principles contained in Section 254(g) of the Act.⁸³ These Opposing Petitioners are correct that Buyer—unlike Verizon—does not provide telecommunications

⁸¹ See Exhibit F, Order 98-9-20, at 9.

⁸² DOT Order Issuing Permanent Certificate Authority, Order 2000-10-2 (October 2, 2000) at 4, appended hereto in Exhibit F.

⁸³ Guam Petition at 3-4; Six CNMI Representatives at 3; CNMI Senator at 2-3; CNMI Governor at 23-26. Joint Applicants note that the Six CNMI Representatives and CNMI Senator appear to confuse the geographic averaging and rate integration requirements of Section 254(g). These parties cite to the Section 254(g) geographic averaging requirement (*i.e.*, IXC's must provide service to subscribers in rural and high cost areas at rates no higher than those charged to urban subscribers), but comment on the benefits to CNMI customers resulting from the Section 254(g) rate integration requirement (*i.e.*, IXC's must provide service to subscribers in each State at rates no higher than those charged to subscribers in any other State). Six CNMI Representatives at 3, CNMI Senator at 2. Joint Applicants believe that the concerns of Six CNMI Representatives and CNMI Senator relate to rate integration, not geographic averaging, and respond accordingly.

services in the continental U.S. and, as a consequence, Buyer has no rates that must be integrated under Section 254(g). Based upon this premise, however, the Opposing Petitioners speculate that consummation of the proposed transfer of control could result in increased rates and fewer service offerings in contravention of the Commission's rate integration policy. This allegation is both legally and factually unfounded.

Section 254(g) does not, as a matter of law, authorize denial of, or conditions on, the proposed transfer of control of MTC and GTE Pacifica to PTI in order to "safeguard rate integration."⁸⁴ Section 254(g) sets out certain factual predicates which, if met, trigger geographic averaging and integration requirements.⁸⁵ The Commission has confirmed that Section 254(g) applies to overseas U.S. territories, such as the CNMI.⁸⁶ Section 254(g), however, cannot, and should not be, read as a general requirement that interstate (in this case

⁸⁴ Guam Petition at 3 (The Governor of Guam in his June 27, 2002, pleading withdrawing his petition to deny noted that he will address the rate integration issue in a more appropriate FCC proceeding); CNMI Governor at 23 n.62 (proposing that the Commission "condition any approval on the requirement that PTI sustain all existing MTC product offerings and pricing not to exceed existing rate levels for at least three years" or "on a reaffirmation that PTI is required to integrate its rates with mainland U.S. rates notwithstanding its lack of a mainland U.S. operating company").

⁸⁵ Section 254(g) requires the Commission to:

adopt rules to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than rates charged to its subscribers in any other state.

47 U.S.C. § 254(g).

⁸⁶ *Policy and Rules Concerning the Interstate, Interexchange Marketplace Implementation of Section 254(g) of the Communications Act of 1934, as amended*, Report and Order, 11 FCC Rcd 9564, 9596 (1996) ("Implementation of Rate Integration").

“off-island”) interexchange service be offered only by a carrier with affiliated mainland operations, to ensure that IXC rates to off shore and insular areas are integrated with rates on the continental U.S.⁸⁷ In other words, if Buyer acquires customers on the continental U.S., Section 254(g) will require it to integrate its IXC rates. The fact that Buyer has no customers on the continental U.S. and does not trigger integration requirements, however, is in no way unlawful or improper. Section 254(g), therefore, cannot serve as a basis for denying the transfer of control applications.

Opposing Petitioners’ speculation notwithstanding, permitting Buyer to acquire the Companies will not increase rates or reduce existing services.⁸⁸ Although Opposing Petitioners are correct that Buyer will be under no statutory obligation to offer service in the CNMI at rates that Verizon and other carriers offer service in the U.S. mainland,⁸⁹ the notion that Buyer will increase rates ignores competitive forces in the CNMI telecommunications market.

First, local exchange rates are subject to the approval of the local regulator. Second, existing competition in the CNMI market for off-island long distance and wireless services applies downward pressure on rates as well as incentives for carriers to compete for customers through the introduction of high quality products and services. In fact, in order to maintain market share, GTE Pacifica currently offers rates via Optional Calling Plans (“OCPs”) and

⁸⁷ Indeed, such a broad interpretation of Section 254(g) effectively would preclude any carrier without mainland operations from acquiring an IXC in an off shore or insular market, to the detriment of consumers.

⁸⁸ CNMI Governor at 24-25 (speculating that the proposed transfer will result in the “loss of attractive Verizon calling plans” and that “interexchange rates for basic service to the mainland U.S. will increase”); Six CNMI Representatives at 3 (speculating that rates would “fluctuate upwards without restraint”).

⁸⁹ CNMI Governor at 24; Six CNMI Representatives at 3; CNMI Senator at 3.

Prepaid Cards that are lower than the integrated rates dictated by Section 254(g).⁹⁰ In addition, the contract that Verizon Long Distance of New Jersey has with ABC stores (a local convenience store chain) for the sale of prepaid cards to consumers in the CNMI and Guam is expected to continue even after the transfer of control of the Companies to PTI. Third, WorldCom provides interexchange service in both the CNMI and the continental U.S., and thus its rates will remain integrated and serve as a competitive benchmark.⁹¹ Fourth, the sale of the Companies to Buyer will not preclude Seller from entering into a correspondent agreement with the Companies for long distance telecommunications services, thus adding providers to the CNMI market and offering consumers more service choices. Finally, the Buyer expressly has committed not to reduce services offered by the Companies.⁹²

Opposing Petitioners also overstate the impact of rate integration alone on reducing rates in the CNMI.⁹³ In fact, this reduction in rates is attributable to a greater extent to the July 1, 1997 inclusion of the CNMI in the North American Numbering Plan (“NANP”) and the

⁹⁰ Available at <http://www.gtepacifica.net> (last visited June 28, 2002) (GTE Pacifica publishes tariffs for OCP and Prepaid Card services via its website).

⁹¹ CNMI Governor at 24 (asserting that the Seller’s “departure from the market would mean the loss of the benchmark integration rate for the Commonwealth”); CNMI Senator at 2 and Six CNMI Representatives at 3 (asserting that a “risk exists that the current guiding rate would be lost”).

⁹² Petition for Declaratory Ruling at 7.

⁹³ CNMI Governor at 25 (The CNMI Governor alleges that “MTC has sustained drastically lower rates since rate integration took effect in 1997 by attempting to incorporate rates with those of its mainland operations”); CNMI Senator at 2 (The CNMI Senator asserts as a consequence of rate integration “outbound long distance calling rates to the mainland U.S. were substantially reduced”); CNMI Six Representatives at 3 (The Representatives argue that when rate integration was first implemented “MTC reduced its outbound long distance calling rates to the mainland U.S. substantially”).

transition from paid 1-800 service to toll-free 1-800 service.⁹⁴ Indeed, this latter change enhanced competition by providers of pre-paid cards, thus placing competitive pressure on rates. Therefore, the FCC should dismiss the Opposing Petitioners' speculative rate integration arguments.⁹⁵

V. THE PUBLIC NOTICE COMPLIES WITH SECTION 553(B) OF THE ADMINISTRATIVE PROCEDURE ACT

The Guam Petition asserts that the FCC's Public Notice⁹⁶ violates Section 553(b) of the Administrative Procedure Act ("APA") by providing "no effective notice to the public that the proposed transfer will impact consumers and businesses in Guam, as well as others in the Guam market."⁹⁷ As described previously, the Governor of Guam withdrew the petition purportedly filed in his name. In any event, however, Section 553(b) of the APA does not apply to the instant transfer of control applications. Section 553(b) of the APA only applies to informal rulemaking proceedings.

In any event, the Commission's Public Notice fully complies with the applicable notice requirements under Sections 309(b) and 310(d) of the Act, and Section 2 of the Cable Landing

⁹⁴ *Federal-State Joint Board on Universal Service; Requests for Extension of 880/881 Transitional Dialing Plan by the Commonwealth of the Northern Mariana Islands and the Territory of Guam*, Order, 13 FCC Rcd 12642, 12645-646 (1998).

⁹⁵ In addition, the withdrawn Guam Petition's allegation that the proposed transfer will somehow result in "unlawfully discriminatory rates in violation of Section 202(a) of the Act" is factually and legally unsupported. The Guam Petition does not even explain what services are being referred to and how the claimed discrimination arises. Guam Petition at 4-5.

⁹⁶ *Commission Seeks Comment on Applications for Consent to Transfer Control Filed by Bell Atlantic New Zealand Holdings, Inc., and Pacific Telecom, Inc.*, Public Notice, IB Docket No. 02-111, DA 02-1173 (rel. May 16, 2002) ("Public Notice").

⁹⁷ Guam Petition at 7.

License Act.⁹⁸ In the Public Notice, the Commission provided a description of the transactions and parties involved. This included an overview of the implicated communications facilities, services and authorizations, such as satellite communications, public mobile services, cable landing licenses, and international and domestic service authorizations. Thus, by properly identifying the companies, services and facilities involved, the Commission fully satisfied relevant due notice requirements. Moreover, any doubt regarding the sufficiency of the Public Notice is dispelled by the fact that the Guam Petition was timely filed, before it was subsequently withdrawn.

⁹⁸ Sections 309(b) and 310(d) of the Act apply to applications involving radio communication licenses, and require the Commission to issue a public notice prior to granting any such application. Section 2 of the Cable Landing License Act, as amended by Executive Order No. 10530, dated May 10, 1954, 3 USCA 301 at p. 1052 (1985), grants the Commission broad discretion to act on a cable landing license after “due notice...” 47 U.S.C. § 35.

VI. CONCLUSION

For these reasons, the Joint Applicants respectfully request that the Commission find that the public interest will be served by grant of the applications and Petition for Declaratory Ruling listed in the FCC's May 16, 2002, Public Notice in IB Docket No. 02-111.

Respectfully submitted,

/s/

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July 1, 2002

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CERTIFICATE OF SERVICE

I, Anne Marie Pierce, a legal secretary at Wilkinson Barker Knauer, LLP certify that on July 1, 2002, the "Joint Opposition To Petitions To Deny And Informal Opposing Comment" was served on all parties listed below by hand delivery (indicated by asterisk) and U.S. mail, first class, postage prepaid

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/s/

Anne Marie Pierce

DECLARATION

I, George Chiu, being a citizen of the United States of America and of legal age, under penalty of perjury, do hereby state and declare as follows:

1. This Declaration is made on behalf of Pacific Telecom Inc. ("PTI") in support of the foregoing Joint Opposition to Petitions to Deny and Informal Opposing Comments ("Joint Opposition").

2. I am a Director and Authorized Representative of PTI. I have reviewed the foregoing Joint Opposition, including the factual representations made with regard to PTI's commitment to expand and enhance existing services offered by Micronesian Telecommunications Corporation through targeted capital investment. The data and facts presented in the Joint Opposition regarding PTI are true and accurate, to the best of my knowledge, information and belief.

FURTHER DECLARANT SAYETH NOUGHT


George Chiu, Director and
Authorized Representative
Pacific Telecom Inc.

Date:

6/30/02

FCC IB DOCKET NO. 02-111

**JOINT OPPOSITION OF BELL ATLANTIC
NEW ZEALAND HOLDINGS, INC. AND PACIFIC
TELECOM INC. TO PETITIONS TO DENY AND
INFORMAL OPPOSING COMMENT**

EXHIBIT A



Senator Kumoi
Ramon S. Guerrero
The Senate

13th Northern Mariana Islands Commonwealth Legislature
Commonwealth of the Northern Mariana Islands

June 21, 2002

Honorable Diego Songao
Chairman, Committee on Public Utilities, Transportation and Communication
The Senate
13th Northern Mariana Islands Legislature
Commonwealth of the Northern Mariana Islands
Saipan, MP 96950

Dear Mr. Chairman:

As you know, I cancel my trip to the Philippines to meet with Citadel due to the recent comments of the President of the Senate regarding my travel versus the travel for Senate Session in Tinian last week under our 3rd Senatorial funds versus the stipend provided each senators from Rota and Tinian. However, please be assured that I have not lost interest in reviewing the qualifications of Citadel and the details of the plan by the Pacific Telecom, Inc., consortium to acquire MTC.

I have read your communication sent to the FCC on this issue and recognized that this is not an official position of the Senate PUTC rather, we requested Mr. Adam Turner and the Senate Legal Counsel to put together our request to FCC to consider an extension of the deadline for comments. The PUTC Committee has not yet been fully brief and has not voted on this issue, but I am assuming that you may have received pressure by the Administration to submit some testimony.

It is certainly not coincidental in my opinion that the position paper submitted this week by the House on this issue is also not an official communication of the House, as it was as I understand on Congresswoman Gloria Cabrera's stationery and not voted on beforehand. I can see a conflict of interests in how members of our legislature were pressured by the Governor's Consultant Mr. Adam Turner, who also serves as the head of the Commonwealth Telecommunications Commission (CTC) to act before we have really ample opportunity to study this issue.

Therefore, it is very timely and important that you as Chairman of PUTC, take the lead in getting more information about Citadel so we can properly consider this company as a potential future owner of Verizon. I wholeheartedly support your efforts to do so immediately, before we lose valuable investment in the CNMP's telecommunications system, not to mention the substantial tax benefits the sale would bring.

P.O. Box 500129, Saipan, MP 96950
Telephone: (670) 664-8909 Facsimile: (670) 664-8805
Email Address: senator.kumoi@gtepacifica.net

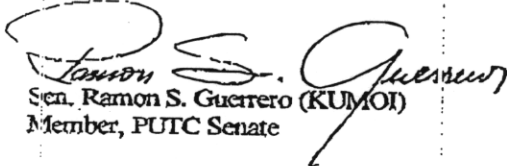
Page 2

For your information, I will be writing to Mr. Norman Tenorio, Chairman of CTC asking to see the contract between the CNMI Government and the Law Offices of Mr. Thomas Crowe to consult on issues regarding telecommunications matters. I have heard that this Washington D.C., based law firm has been asked to formulate policy arguments in opposition to an application of Pacific Telecom Inc., before the FCC to acquire Verizon's holdings here. Again, this seems like a clear conflict of interest and I feel we must learn all the facts.

I will request CTC a copy of such contract and a copy of the scope of work on deliverables, as well as any correspondence and specific work performed by such contractor in connection with the proposed sale of Verizon. I think we should also request to see copies of all minutes of the CTC since Mr. Turner has taken over.

Once I receive these documents if it happens, I will share them with you and the rest of the members of the committee.

Sincerely,


Sen. Ramon S. Guerrero (KUMOI)
Member, PUTC Senate



Senator Kumoi
Ramon S. Guerrero
The Senate

13th Northern Mariana Islands Commonwealth Legislature
Commonwealth of the Northern Mariana Islands

June 24, 2002

Mr. Norman Tenorio
Chairman
Commonwealth Telecommunications Commission
Capitol Hill
Caller Box 10007
Saipan, MP 96950

Re: Open Government Act Request for Pertinent Information Related to Citadel Holdings'
Proposed Involvement in the Purchase/Transfer of FCC Licenses and Authorizations
Presently Held by MTC.

Dear Mr. Norman Tenorio:

The proposed involvement of Citadel Holdings and Pacific Telecom, Inc. in the purchase of Verizon Telecommunications has raised many legal, financial, and political issues. Various government agencies and departments, therefore, have sought to gain further insight into the proposed purchase to determine whether such proposal is in the best interests of the people of the CNMI.

The Commonwealth Telecommunications Commission (CTC) has been at the forefront of addressing the aforementioned issues because CTC was created by Public Law 12-39 to "serve the public interest with regard to telecommunications services and [to] ensure that efficient telecommunications services are maintained in the Commonwealth." See P.L. 12-39, see also 4 CMC § 8301(a). Accordingly, it is appropriate that CTC provide other government agencies and departments, including the Legislature, pertinent information related to the proposed purchase of Verizon Telecommunications so that an independent assessment of the propriety of the proposed purchase may be conducted.

In light of the foregoing, I hereby request your cooperation and assistance by providing the following information:

P.O. Box 500129, Saipan, MP 96950
Telephone: (670) 664-8909 Facsimile: (670) 664-8805
Email Address: senator.kumoi@gtepacific.net

- (1) Copies of the minutes of all CTC meetings and/or hearings¹;
- (2) Copies of all correspondence related to the proposed purchase of Verizon Communications by Citadel Holdings and Pacific Telecom, Inc.²;
- (3) Copies of the contract entered into between CTC and the Law Offices of Mr. Thomas Crowe;
- (4) Copies of any documents, including official comments and/or "position papers," drafted by the Law Offices of Mr. Thomas Crowe on behalf of CTC for the purpose of taking an official position as to the propriety of the proposed purchase of Verizon Communications by Citadel Holdings and Pacific Telecom, Inc.;
- (5) Copies of the invoice/billable hours submitted by the Law Offices of Mr. Thomas Crowe to CTC;
- (6) Copies of official correspondence between Mr. Adam Turner, Executive Director of CTC, and the Law Offices of Mr. Thomas Crowe; and
- (7) Copies of official correspondence, written testimony, or other written policy statements written by Mr. Adam Turner that relate to the proposed purchase of Verizon Communications by Citadel Holdings and Pacific Telecom.

Thank you for your attention to the above request,


Sen. Ramon "Kumoi" S. Guerrero

¹ Pursuant to 1 CMC § 9914: "[t]he minutes of all regular and special and executive meetings of such boards, commissions, agencies or authorities shall be promptly recorded and such records shall be open to public inspection within 30 days after the approval of the minutes of the meetings . . ."

² Pursuant to 1 CMC § 9917(a): "[w]ithin 10 days of a request, all public records shall be available for inspection by any person during established office hours unless public inspection of such records . . ."

FCC IB DOCKET NO. 02-111

**JOINT OPPOSITION OF BELL ATLANTIC
NEW ZEALAND HOLDINGS, INC. AND PACIFIC
TELECOM INC. TO PETITIONS TO DENY AND
INFORMAL OPPOSING COMMENT**

EXHIBIT B

Marianas Variety & Views

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Guerrero says Senate panel was 'pressured'

By Annie Ruth C. Sabangan
Variety News Staff

SENATOR Ramon S. Guerrero is claiming that the letter recently sent by the Senate Committee on Public Utilities, Transportation and Communication to the Federal Communications Commission on the purchase of Verizon was not the official position of the panel, but this was denied by the committee chairman himself. Guerrero is also alleging that Adam Turner, one of the governor's special assistants, "pressured" lawmakers, which Turner denied. Recently, the PUTC committee chaired by Sen. Diego M. Songao, Covenant-Rota, sent a petition to the FCC similar to the letter sent by six members of the House of Representatives, urging the commission to deny the proposal of a consortium that includes Citadel Corp. and Tan Holdings to purchase Verizon's local franchise.

In a June 21 letter to Songao, Guerrero said Turner could have influenced the committee's decision to send a petition to the FCC identical to the executive branch and the House's position. But Turner said he merely provided information to the lawmakers. "The issues discussed namely rate integration, foreign ownership of a vital utility and the lack of information was raised by the (lawmakers) themselves," Turner said. Guerrero said the Senate committee wanted to ask the FCC to extend the application period for the consortium.

"The...committee has not yet been fully briefed and has not voted on this issue, but I'm assuming that you may have received pressure by the administration to submit some testimony," said Guerrero, American Reform-Saipan, in his letter to Songao. He added: "I can see a conflict of interest in how members of the Legislature were pressured by...Mr. Adam Turner...to act before we have really ample opportunity to study this issue." But Turner also denied that there was a conflict of interest. He said he was just invited to attend a meeting of the committee and the position taken by the members "were theirs."

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"I respect the right of Chairman Songao to review the sale and formulate whatever opinion he has. The administration never discussed the matter with the chairman. We totally respect his jurisdiction over these matters," he said.

Songao, in a separate interview yesterday, defended Turner. He said the committee's decision "was not in anyway influenced by Turner."

"I asked Mr. Turner to provide us information on the Verizon purchase deal. But we ourselves decided on what we should do. Our Senate legal counsel, Tony Cabrera can prove that," he said.

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Gutierrez withdraws petition vs Verizon deal

*By Haidee V. Eugenio
Variety News Staff*

GUAM Gov. Carl T.C. Gutierrez has withdrawn his earlier objection to the purchase of Verizon's franchise in the CNMI by a consortium that includes Tan Holdings Corp. and Citadel Holdings Corp.

This "change of heart" came 10 days after Gutierrez's June 17 filing that petitions the Federal Communications Commission to deny the sale of Verizon to the consortium. "I have determined that it is not in the public interest to oppose this transfer of control. Therefore, as the governor of Guam, I hereby withdraw the petition to deny filed on June 17," said Gutierrez in a two-page filing with the FCC on June 27.

He said the concerns discussed regarding rate integration and the implementation of the commission's rate integration order for the Pacific territories will be raised in an appropriate FCC forum.

Earlier, Gutierrez said the transfer of Verizon's control will prove detrimental to public interest and will also impact consumers and businesses on Guam that are currently benefiting from the reduced telecommunications service offerings available under Verizon's nationwide integrated plans.

Anthony Mosley, Verizon acting general manager, said he believes that Gutierrez has recognized that this transaction is "positive" for the region.

"In the current economic environment, it is great when solid companies like Citadel/Tan Holdings want to invest on Guam and the CNMI. This investment will be a boon for the region if other investors believe that these are great places to do business," Mosley told Variety yesterday.

He added, "The aforementioned is a message that we as business people need to get from our elected leaders—Guam and the CNMI are places where investing is easy and straightforward and are also great places to do business."

The U.S. Department of Justice and the Federal Bureau of Investigation also filed on June 17 a four-page petition urging the FCC to defer action on the licenses and applications of the consortium, citing national security, law enforcement and public safety concerns.

CNMI Gov. Juan N. Babauta and key House members earlier submitted a petition opposed to the purchase.

J. Michael Fitzgerald, vice chairman of the Commonwealth Telecommunications Commission, encouraged local and federal entities to submit their comments regarding the Verizon purchase deal, and to voice out their concerns during the scheduled public hearings on Saipan, Tinian and Rota.


The Commonwealth Telecommunications Act authorizes CTC to approve or disapprove applications for approval of sale, assignment or transfer of certificate and/or encumbrance of assets/stock.

Mosley said there are not many jurisdictions in the U.S. that offer great proximity to the economic powerhouses of the future—the Asia Pacific region—with the added protection of being under the U.S. flag.


“It’s a very simple equation: Great destinations plus a good straightforward business climate equals unlimited opportunity,” said Mosley.

The FCC has given a July 1 deadline for Verizon to file its comments. Mosley said Verizon and the consortium will file their response soon.

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By Jayvee Vallejera
Staff Reporter

Yes, the Senate Committee on Public Utilities, Transportation and Communication did agree to ask for an extension of the Federal Communications Commission deadline to submit comments on the sale of Verizon Pacifica to the Citadel Holdings consortium.

However, the committee's submission opposing the sale was also correct, in that the proper procedure to ask for the extension was to word it that way, based on the advice of Commonwealth Telecommunications Commission executive director Adam Turner.

Thus explained Sen. Diego M. Songao yesterday, in reaction to concerns raised by Sen. Ramon S. Guerrero, who had pointed out to the PUTC Chair that what the committee had agreed on last June 17 was different from the eventual submission that was submitted to the FCC.

Characterizing it as a miscommunication, Songao said he is now writing a letter to Guerrero to explain the matter.

"Yes, we did agree to ask for an extension of the FCC deadline so we could have more time to air our concerns. However, after talking to Adam Turner, he explained to me that the proper procedure was to



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Consulting archaeologist Lon Bulgrin (right) and HPO staff John Castro-Mames led the excavation activities at the Hopwood Junior High School where 11 burial sites had been identified. (EDITH G. ALEJANDRO)

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request for a denial of the application so it could allow an extension on the submission of comments," Songao said.

The FCC had set June 17 as the last day for the submission of comments regarding the sale of Verizon to the Citadel consortium before it issues a license to the new owners.

The PUTC committee had submitted a comment opposing the sale on three grounds: violation of Section 310 of the 1934 Communications Act, which prohibits foreign ownership a radio license; the possible jeopardy it poses to the rate integration in the CNMI; and insufficient information about the new owners.

According to Songao, Turner had explained to him that one cannot just ask for an extension of the deadline. "The petition submitted has to be written either as a petition to deny or petition to approve, so that the FCC can then make a tentative schedule for a hearing," he added.

The Senate's legal counsel, Tony Cabrera, echoed this, saying the submitted document asked the FCC to deny the application at this time "so that we can have another chance to air our concerns more fully at a later date."

As for Guerrero's allegations of pressure, Songao said that it was the time constraints that actually pressured them to come up with the comments. The committee had met on the date of the deadline itself.

Cabrera agreed, saying that, since the CNMI is one day ahead of the U.S. mainland, "we still had 15 to 18 hours to work on the comments but our day here was winding down at 4:30pm, so were under pressure to

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hurry up.”

Rep. Gloria DLC. Cabrera also explained that this need to beat the clock was the reason why the Senate PUTC’s comments were almost identical to the comments that six House of Representatives lawmakers submitted to the FCC.

“That was the draft that we [six lawmakers] put together. Apparently, the Senate did not have ample time to put together an entire document addressing some of the issues and concerns. They were not aware that the deadline was that day. What happened was they requested for an immediate meeting with Adam Turner, and they wanted something in writing and they were able to get hold of the document that was in a diskette that I had sent to the Governor’s Office for submission to FCC and that was why the documents were identical,” Gloria DLC. Cabrera said.

Tony Cabrera related that he then received from Turner the comments in draft form and he added one paragraph that consisted of two sentences.

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'Verizon sale becoming a political game'

By Jayvee Vallejera
Staff Reporter

If there is one thing that House Speaker Heinz S. Hofschneider and Sen. Ramon S. Guerrero agree on, it's in the belief that the Verizon Pacifica sale has become a political hot button.

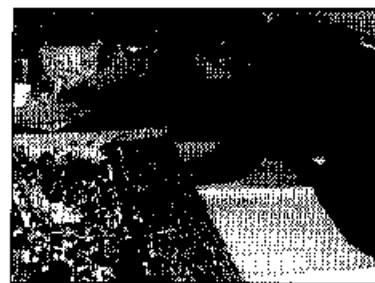
Guerrero said the sale of the telecommunications firm has become a political game for the CNMI government, probably because of the persons involved in the sale of Verizon.

The bidding for Verizon has been won by the Citadel consortium, consisting of the Citadel Holdings Inc. (50 percent), Tan Holdings Corp. (30 percent) and minor shareholders (20 percent).

"It has become a political game, maybe because of the personalities associated with the sale, which should not be the case in the first place," said the senator.

Hofschneider agreed, saying: "I agree with Senator [Guerrero] that we shouldn't be making this a political issue and he's right, it's fast becoming a political issue. I agree with Senator Guerrero's opinion."

Instead of making the sale a part of an elaborate political game, Hofschneider said the government should look at the substance and



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Noel Quitugua shows the miniature model of the proposed Chamorro Village, which is hoped to preserve the cultural heritage of indigenous Northern Marianas residents. (EDITH G. ALEJANDRO)

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merits of the sale and consider it objectively if it is in the best interest of the Commonwealth.

"If it can offer the services that the people require and offers growth for the Commonwealth, then we should support it," said Hofschneider.

He conceded, though, that Commonwealth officials should also be mindful of the security issues relating to communications that need to be addressed.

"We need to do our part in making sure that, if this is not in any way deluding or weakening any of the security aspects, then I don't see any problem in supporting the sale," he said.

Hofschneider stressed that Verizon Pacifica has already been bid out and it is up to the winning bidder, the Citicel consortium, to choose whether it will push through with the sale or not.

"If the government continues to inject itself into the transaction by appearing to manipulate to whom the award should go to, then the CNMI has to be very careful that this do not result in jeopardizing Verizon's services in the Commonwealth," he said.

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SITE INDEX**Front Page**[Home Page](#)[About Us](#)[Contact Us](#)[Privacy Policy](#)[Advertise](#)[Subscribe](#)[Webmaster](#)[Site Map](#)**FRONT PAGE****'Senate PUTC not opposed to Citadel'**

By Jayvee Vallejera
 Staff Reporter

The chairman of the Senate utilities committee clarified yesterday that his committee is not opposed to the issuance of a license to the Pacific Telecom consortium, which won the bid to take over the local operations of Verizon Pacifica.

Rather, Sen. Diego M. Songao said he and his colleagues in the committee want to obtain more information—about the new company taking over and its capacity to handle the operations—and to find out how the new firm would address some of their existing concerns.

"We're not opposed. Our position is not opposed to the issuance of a license. We would like to get more information about the company. We just got some of the information two days ago. It was released to us, some background of Citadel," said Songao, who chairs the Senate Committee on Public Utilities, Transportation and Communication.

The Public Telecom consortium is composed of majority shareholder Citadel Holdings Inc. (50 percent), Tan Holdings Corp. (30 percent) and a group of minority shareholders (20 percent).

House Speaker Heinz S. Hofschneider had earlier cautioned against the government intervening



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Victor Song, the federal Internal Revenue Service's special agent-in-charge in the CNMI, speaks to the media regarding a joint effort to run after U.S. tax evaders misrepresenting themselves as CNMI residents, so they can benefit from the local rebate system. Song is joined by: (left to right) Finance Secretary Frank Villanueva, Attorney General Robert T. Torres and U.S. Attorney Joe Wilson, criminal chief for the U.S. Attorney's Office for Guam and the CNMI. (JOHN RAVELO)

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too much in the sale, which he described as primarily a business transaction between two private entities.

Songao balked at this, however, saying the government's interest in the sale is not so much an intervention but making sure that legitimate concerns are addressed.

"It's not that we want to intervene; we are just concerned about this situation—these concerns that surround the approval of the licenses for the long-distance services, cellular services and local telephone operation," said Songao.

"There are some concerns—concerns of Tinian, concerns of Saipan, and concerns of Rota—and we'd like to see these [concerns] addressed," he added.

To illustrate, Songao said that it is in the law that inter-island calls must be free. However, the present company, Verizon, has not implemented this. "Now, if this other company succeeds in obtaining Verizon's operations in the Commonwealth, would the same thing happen?" he asked.

Another issue that Sen. David M. Cing had earlier mentioned is the possibility of having some local participation in the new company.

Another matter that Songao said Sen. Ramon S. Guerrero had already mentioned earlier are the rate integration, the creation of a competitive telecommunication system that opens up the industry to other local exchange carriers, and making the present infrastructure affordable to other carriers.

As for Guerrero's concerns of possible political manipulation of the

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committee, Songao merely said: "I am not trying to encourage any kind of feud in reference to what he [Guerrero] has already said. As I mentioned in my response to him, I don't really like to see these things happening out in the media as this is a very critical issue that is pending approval before the FCC."

He stressed that anything coming out of the committee must be the consensus or with the approval of the committee.

"The other members also agreed that we should all behave and make a decision as a whole," Songao added.

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**JOINT OPPOSITION OF BELL ATLANTIC
NEW ZEALAND HOLDINGS, INC. AND PACIFIC
TELECOM INC. TO PETITIONS TO DENY AND
INFORMAL OPPOSING COMMENT**

EXHIBIT C

Introduction

In accordance with Public Law 12-39 and the Commonwealth Telecommunications Regulations the following report is submitted for the Commonwealth Telecommunications Commission's full review. This submission incorporates compliance requirements contained in the Commonwealth Telecommunications Regulations below.

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COMMONWEALTH TELECOMMUNICATIONS COMMISSION
TELECOMMUNICATIONS REGULATIONS

Article 5 - Transactions and Capitalization.

Section 5-100 Applications for Approval of Sale, Assignment or Transfer of Certificate and/or Encumbrance of Assets/Stock.

A person or entity seeking to obtain authorization under Section 8315(a) of the CTA shall submit an application jointly with the certificate holder containing the following information:

- (a) The names (including fictitious names-d/b/a), addresses, internet email addresses and websites, telephone and fax numbers, and Federal Employment Identification numbers (or social security numbers, if individuals) of the parties to the transaction;
- (b) The organizational structure of each party to the transaction (e.g., individual, corporation, partnership). If incorporated within the Commonwealth, proof of incorporation must be provided. If incorporated outside of the Commonwealth, the foreign state of incorporation should be identified and proof of authority to operate in the Commonwealth must be provided;
- (c) A description of the transaction, including whether the applicants are seeking:
 - (1) Approval of a transfer of an existing certificate (e.g., a non-certificated individual or entity seeks to purchase an existing certificated telecommunications company and desires to retain the original Certificate of Authority); or
 - (2) Approval of an assignment of an existing certificate (e.g., a certificated telecommunications company seeks to purchase an existing certificated telecommunications company and desires to retain the Certificate of Authority of that telecommunications company); or
 - (3) Approval of a transfer of control (e.g., an individual or entity seeks to purchase a greater than 50% interest in the certificated telecommunications company). The Commission must approve the new controlling entity; or
 - (4) Approval to mortgage or otherwise encumber substantial assets, franchises, Certificates of Authority and/or certificates of capital stock of a telecommunications company
- (d) An indication of whether any of the officers, directors, or any of the ten largest stockholders of any of the parties to the transaction have previously been:
 - (1) Adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. If yes, a full explanation must be provided; and/or
 - (2) An officer, director, partner or stockholder in any other Commonwealth certificated or registered telecommunications company. If yes, the name of the telecommunications company and the relationship must be provided. If no longer associated with the telecommunications company, a reason should be provided as to why not.
- (e) The name, title, address, Internet email and website addresses, telephone and fax numbers of the individual who will serve as liaison to the Commission regarding:
The application.
 - (2) The ongoing operations of the certificated telecommunications company which is the subject of the transaction; and
 - (3) Customer complaints and inquiries.

- (f) A list of countries (if U.S., list states) in which the applicant has operated as a telecommunications company, is currently authorized as a telecommunications company, and has applications pending to be authorized as a telecommunications company.
- (g) A list of countries (if U.S., list states) where the applicant has been denied authority to operate as a telecommunications company, has had regulatory penalties imposed for violations of telecommunications or other statutes and the circumstances involved, or has been involved in civil court proceedings with another telecommunications company and the circumstances involved.
- (h) Resumes of employees and corporate officers of the applicant for those individuals who would be directly involved on a day-to-day basis with the management and operations of the CNMI market. Each such resume shall state the following:
 - (1) Indicate sufficient managerial experience of each; and
 - (2) Indicate sufficient technical experience or indicate what individual or entity is under contract with the applicant to conduct technical maintenance;
- (i) Audited financial statements for the most recent 3 years. If the applicant does not have audited financial statements, it shall be so stated in the application. Unaudited financial statements should be signed by the applicant's Chief Executive Officer and Chief Financial Officer affirming that the statements are true and correct and should include, at a minimum, a balance sheet, income statement, and statement of retained earnings.

Further, the application should provide a written explanation (including supporting documentation) that the applicant has sufficient financial capability:

 - (1) To provide the requested service in the geographic area proposed to be served;
 - (2) To maintain the requested service; and
 - (3) To meet its lease and/or ownership obligations.
- (j) A list of all physical assets, such as but not limited to points of presence, switches (including type of switch) and transmission facilities to be purchased/leased, including addresses of each.
- (k) An affidavit signed before a notary public within three business days of the date of the filing of the application that states under the penalty of perjury:
 - (1) The information provided in the application is true and correct and that the signing officer has the authority to sign on behalf of the individual or entity; and
 - (2) That the applicant understands that all telecommunications companies in the Commonwealth are subject to an annual fee assessed quarterly and other assessments, contributions and taxes, and that the applicant will meet all such regulatory obligations on a timely and complete basis.
- (l) The Commission shall establish a purchaser's minimum capital requirement for sale or transfer of a certificate of authority, prior to the grant or denial of a transfer request.

EXECUTIVE SUMMARY

All currency amounts in this document are stated in United States dollars, unless otherwise noted

Information in this submission regarding each individual party (Pacific Telecom, Citadel, Tan, Missouri and MTC, as applicable) is provided solely by such party. All projections and statements related to the strategies and operations of MTC following the closing of the proposed sale are provided solely by Pacific Telecom.

The Transaction

Bell Atlantic New Zealand Holdings, Inc., a wholly owned subsidiary of Verizon Communications, Inc., has agreed to sell 100% of the stock of its wholly owned subsidiary, The Micronesian Telecommunications Corporation (MTC), to a consortium of investors which have incorporated in the CNMI as Pacific Telecom, Inc. The investors are Citadel Holdings, Inc., through its overseas telecommunications investment arm Prospector Investment Holdings Inc., a diversified transportation and logistics services company headquartered in Makati City, Philippine Islands (see Exhibit A), Tan Holdings Corporation, a diversified services and manufacturing company headquartered in the CNMI (see Exhibit B), and Missouri Holdings Corporation, a CNMI incorporated company, formed for the specific purposes of telecommunications investment (see Exhibit C).

Overview of the Investors

Citadel (Prospector Investment Holdings Inc.)

Citadel, headquartered in the Philippines, is the former majority owner of ISLACOM, the second largest telecommunications company in the Philippines. Deutsche Telekom and Globe Telecommunications, the second largest telecommunications provider in the Philippines behind Philippines Long Distance Company (PLDT), bought ISLACOM from Citadel Holdings for \$58.7 million in 1999, at the time of sale, ISLACOM had over 120 base stations, 100,000 subscribers on the cell network, 25,000 paging subscribers and 400,000 local exchange lines. Citadel Holdings Inc. is led by Ricardo Delgado Sr. and Ricardo Delgado Jr. (see Exhibit A). As a former provider of wireless telecommunications services, Citadel also has a variety of other business interests that include transportation operations, logistics and information services. Citadel Holdings owns the dominant airport services company one of the primary transportation hubs at the Ninoy Aquino airport in Manila.

In 1992 Citadel founded the cellular phone provider Islacom and managed and operated the company until its sale to Globe Telecom and Deutsche Telekom in 1999. When Citadel sold its ownership stake in Islacom, it had assets of 500 million dollars. Following the sale of Islacom, Citadel established Prospector Holdings Inc., as a telecommunications investment subsidiary for the specific intent of finding long-term growth telecommunications properties worldwide.

Citadel has a strong foundation in the local and international telecommunications industry based on its past experience with Islacom, and is committed to continuing MTC's tradition of providing outstanding service to its customers, as well as developing the company's potential for further growth throughout the Asia Pacific region. Because of Citadel's experience in building Islacom, the company has a track record of producing telecommunications growth and becoming market leaders in the industry.

Citadel through its telecommunications arm Prospector Investment Holdings Inc. views MTC as a very attractive investment and anticipates the property will yield strong long-term growth. MTC offers a world-class telecommunications infrastructure and maintains a highly skilled and motivated workforce. The combination of MTC's workforce and infrastructure coupled with Citadel's experience in international communications will create a formidable international communications company.

Upon completion of the sale of MTC, Pacific Telecom Inc., will be focused on capturing unique opportunities within the telecommunications industry, primarily, Call Center Applications, International Toll Settlements Arbitrage, IP Telephony, Teleport/Telchouse and regional expansion opportunities. Citadel believes the opportunities ahead will offer the people of the CNMI more access to the information superhighway, at affordable prices. Citadel's commitment to renew investment activity in telecommunications will bring new business opportunities, and potential job growth in highly skilled positions to the CNMI. Citadel is committed to working closely with Verizon and the CNMI government to ensure MTC's transition to new ownership proceeds as smoothly as possible.

Tan Holdings Corporation (THC)

As a 30% stakeholder, Tan Holdings founded in 1972 on Guam to conduct shipping, real estate and movie distribution businesses, Tan Holdings Corporation (THC) is a diverse holding company, which today operates leading companies in

more than a dozen industries in the Western Pacific. The company moved its headquarters to Saipan in 1983, where it is now the largest private taxpayer and employer in the Commonwealth of the Northern Mariana Islands.

THC currently operates business ventures in the following industries: apparel manufacturing, logistics services, ground handling services, fishing, real estate, amusement, fast food, movie theatres, hotels, travel, insurance, wholesale, information technology, publishing and an all-cargo regional airline. It also has investments in banking and cable television.

The corporate vision of Tan Holdings is to become one of the most admired companies in the Western Pacific. To achieve this, it has maintained a philosophy of making continuous improvements, particularly in technology and human resources training. A core business philosophy utilized throughout its business ventures is to leverage the group's logistics and IT capabilities to provide customers with value-added services.

Achievements in these areas contributed to two recognitions by the prestigious Hong Kong Management Association. The "2001 Award of Excellence" was awarded to the group based on a set of criteria focusing on leadership, strategic planning, customer and market focus, information and analysis, human resources focus, process management, and key business results. Additionally, the company was recognized with the "2001 Best Practices in Supply Chain" award.

Several of the affiliates of Tan Holdings hold ISO 9002 certification for quality management practices. Additionally, the apparel manufacturing group of Tan Holdings is SA 8000 certified for social accountability and is a founding member of a special partnership between the U.S. Department of Labor OSHA Division and the Saipan Garment Manufacturers Association called "Excellence 2000."

THC views its involvement in community activities as an opportunity to help improve the quality of life where the company does business. In 2002, the company formalized its philanthropic activities with the incorporation of the new Tan Holdings Foundation, a non-profit organization tasked with maximizing the long-term value of the company's charitable donations, encouraging employee involvement in local activities, as well integrating corporate contributions into the company's vision for the future.

Missouri Holdings Corporation

As a 20% stakeholder in Pacific Telecom Inc., Missouri Holdings, led by Managing Partner Mr. Michael Leung, looks forward to growing Pacific Telecom's business venture long term (Exhibit C). As a former Managing Director of China Telephone Co. Ltd. and a Managing Director of Telepaging Ltd., Mr. Leung brings a wealth of knowledge to Pacific Telecom Inc. As a current stakeholder in People's Cellular Co. Ltd., a cellular telecommunications provider in Hong Kong, Mr. Leung's telecommunications contacts throughout the Asia Pacific region will assist Pacific Telecom with future growth and investment in the CNMI.

Pacific Telecom Inc.

Pacific Telecom Inc. is fully incorporated and capitalized in the CNMI. Pacific Telecom Inc. is the joint venture between Citadel Holdings (Prospector Investment Holdings Inc.), Tan Holdings and Missouri Holdings (Exhibit D). The Board of Directors of the corporation will have representation by each of the shareholders along with representation by the Chief Executive Officer.

Overview of The Micronesian Telecommunications Corporation dba Verizon Micronesia

GTE Corporation (which became Verizon in 2000 upon its merger with Bell Atlantic Corporation) purchased MTC in 1981 and has been operating the Company continuously since that date. The Company provides a full suite of telecom services to the Northern Marianas Islands of Saipan, Tinian and Rota and provides certain competitive telecommunications services on the island of Guam. The Company's telecom services include local, national and international toll, cellular, Internet and data.

The Company is composed of two operating units, providing telecommunications services in the CNMI and Guam. The first of the two operating units is The Micronesian Telecommunications Corporation (MTC), which serves as the local exchange carrier (LEC) for the CNMI. Verizon Pacifica, Inc., a subsidiary of MTC, is an Interexchange Carrier (IXC), offering non-regulated telecommunications services such as long distance, cellular, Internet and telephone equipment sales and service.

The Company's existing network facilities include both satellite and fiber optic connectivity. Verizon invested \$16 million to connect the three primary islands in the CNMI to Guam by fiber optic cable in 1996. The fiber optic cable comprises 12 strands of single mode fiber and travels from the CNMI to Tanguisson Cable station in Guam. The Company's outside plant is 100 percent buried cable and is thus well protected to survive extreme weather conditions. MTC currently has approximately 25,000 access lines. The Company utilizes all Nortel digital equipment with full LEC feature functionality. The Company owns and operates Nortel DMS 100/200 switches with a GSP gateway switch and nine remote central offices (COs). Six of the remote COs are on the island of Saipan, one remote CO is on the island of Tinian and two remote COs are on the island of Rota. Additionally, the Company owns and operates a 21 mile long buried fiber optic ring on Saipan. The Company is one of two wireless operators in the Northern Marianas Islands, and owns and operates both an AMPS and a TDMA digital network. The Wireless Bureau of the FCC has classified the CNMI as a Rural Service Area (RSA). The company owns and operates the B-Band cellular license for the CNMI RSA.

Additionally, the Company owns and operates two satellite earth stations, one of which is 15.5 meters and the other of which is 13 meters. Both satellite dishes are on the island of Saipan.

In 1998, the CNMI joined the North American Numbering Plan (NANP), which gave residents of the Commonwealth access to 1+ dialling and 800 (toll free) services. The CNMI can be reached from anywhere in the US by dialling 1 + the area code 670.

Organizational Structure

Following the purchase by Pacific Telecom the Company will operate under the leadership of a Chief Executive Officer Bob Anderson, a veteran of 25 years of telecom experience (see attached biography). Mr. Anderson will be responsible to oversee all aspects of the company's affairs. The company will continue to have a General Manager who will be responsible for the day-to-day operations. The General Manager will report to the CEO. Reporting to the General Manager are managers responsible for public and community affairs, international services, customer care, human resources, finance, information services, network services, and sales and marketing. Pacific Telecom expects to make no significant changes to the Company's existing organizational structure or changes in responsibility.

Figure 3.2: Company Organization Chart

THE COMPANY ORGANIZATION WILL NOT CHANGE FROM ITS CURRENT STRUCTURE BUT WILL ADD A CHIEF EXECUTIVE OFFICER MR. ROBERT ANDERSON WHO HAS OVER 40 YEARS OF TELECOMMUNICATIONS EXPERIENCE WORKING AT NYNEX (CURRENTLY VERIZON).

Corporate Objectives

This section describes Pacific Telecom's goals, strategies and plans for the Company.

Goal: Provide customers with value added products and provide solutions to a busy life.

Strategy:

- Deploy an advanced intelligent network to greatly expand the capability of the existing network by providing the ability to manage or change information as it flows through the network.

Management

The Company's management team consists of key executives who manage the day-to-day operations. The management team has significant telecom experience from MTC/GTE/Verizon and understanding of the local CNMI market. Pacific Telecom expects to make no material changes in the management structure.

Mission Statement

MTC's mission is to provide innovative, practical and top-quality products that save time and improve the way people communicate. We believe our first responsibility is to the customers who use our products and services. Pacific Telecom supports the company's mission statements and will continue to invest, work and further enhance and refine the mission statements as MTC's owner. In carrying out our day-to-day business:

- 1. We respect our fellow workers as individuals
- 2. We value each and every customer
- 3. We are committed to quality
- 4. We care about the communities in which we work
- 5. We believe that success comes by working together
- 6. We understand that profitability is vital to our future

Citadel and Pacific Telecom's guiding principles for MTC are as follows:

- 1. Preserve and enhance the existing wireline voice business
- 2. Accelerate development of wireless communications
- 3. Aggressively expand data services
- 4. Pursue opportunities in International Telecommunications
- 5. Maintain and develop highly trained highly employee base

The Company's business strategy is embodied in its vision statement:

"Bringing World Class Communications Services to the islands in a friendly Micronesian way."

More specifically:

- MTC's plan is to attain market leadership through superior customer service - being the easiest company to do business with. A key part of the plan is to realign ourselves into two customer-focused organizations: the Local Exchange Carrier and the non-regulated enhanced service provider. The combined effect will be the timely delivery of value-added solutions to customer needs at the most competitive prices. Each business unit will be responsible for understanding its market, the needs of its customers, and the competition it faces within the market.
- The Company provides high quality network operations, including 24 hour customer care via a centralized 24 hour answer center, improved maintenance via a network trouble tracking system, field supervisor quality inspections and weather impervious underground outside plant.
- The Company provides a full service bundle of telecommunications services including local, toll, cellular, Internet and other telephone sales and services.
- The Company continues to be able to contain its costs, due to its advanced customer care, billing and network operations systems. Additionally, the Company's high quality, weather impervious outside plant makes large outside plant maintenance expenditures unnecessary.
- The Company places significant emphasis on providing excellent customer service. A new Automatic Call Distribution system (ACD) has recently been installed. This new ACD system enables each agent to handle approximately 200 calls per day. The new system also facilitates billing and service inquiries, as well as training and monitoring. The Company's new system is personal computer based, and replaces the "dumb" terminals that had previously been in use. Service orders are now processed in paperless environment.
- Local Services. The Company is the sole provider of local telecommunications services on the islands of Saipan, Tinian and Rota. Local service is currently priced on a flat-rate unlimited usage basis. Current pricing is \$19 per month for residential and \$40 per month for business. MTC management is committed to balancing the impacts of our competitive activities on our employees with the needs of our customers and shareholders. We have a skilled and dedicated workforce that requires a period of time to assimilate the modifications already accomplished before extending toward even higher levels of exemplary performance for our customers and shareholders.
- The Company intends to grow the business both within the CNMI and throughout the Asia Pacific region.

Strategic Initiatives for the Future

Customer Commitment

Pacific Telecom believes that the customers' interests always come first. Our shareholders' experience in their historic businesses demonstrates that if we serve our customers well, our own success will follow.

Employee Development and Training

People are our most important assets. Pacific Telecom and its shareholders believe in creativity and imagination and we intend to invest in our people to develop those skills.

Network Operations Care and Delivery

MTC will continue to improve network operations with 24-hour customer care, improved maintenance, and quality programs. Specific initiatives include centralized 24-hour answer center, network trouble tracking system, field supervisor quality inspections, and weather impervious outside plant program.

Enhanced Customer Service

The needs of the residential segment will be handled through the Customer Service Office (CSOC). The objective is to make all sales, service, and billing contacts a favorable experience for the customer by making each employee a focused, well-trained advocate for MTC.

In addition, MTC will evaluate re-entry into the retail field through the opening of a Phone Mart. The Phone Mart, if approved, will concentrate on the retail sale of equipment, as well as network services. Emphasis will be placed on training to re-enforce the Phone Mart's position as a place to get knowledgeable sales assistance and to better self enhanced network services. The Phone Mart will also be equipped and managed as a demonstration center to allow hands-on experience to close the sale.

The Company's strategy will be to enhance the customer service experience through process and floor plan improvements to enable customer representatives to serve the customer from beginning to end regardless of the product line.

End User Billing

Billing system enhancements and capability will be key to enhancing productivity and customer satisfaction. The billing system upgrades will allow for multi-cycle billing to ease customer congestion during peak service times during the month. These systems will also allow for convergent billing of local, toll, cellular, internet and other telephone sales and services offering the customer greater value.

Expanded Access to Products and Services – Lifeline and Link up

Increase the overall telephone penetration rates in the Commonwealth by insuring that customers understand the Federal benefits and subsidies available to them in the Lifeline and Link-up Programs.

Call Center Growth

Work with worldwide telecommunications partners to attract strategic investments and significant traffic from call centers in the United States and in the Asia Pac region that allow call centers to use a follow the sun strategy in coordinating Call Center applications.

Broadband Leadership

Capital Spending and Network improvements will be focused in key areas such as the Local Exchange Company (LEC), and Wireless business to facilitate broadband development in the Commonwealth.

LEC

Goal: Retain market share in the growing Marianas market and expand internationally.

Strategy:

- 1) Reduce prices for competitive services (especially toll and access)
- 1.2) Offer competitive packages that match customer needs
- 1.3) Reduce our costs to enable more competitive pricing
- 1.4) Further enhance service quality with the goal of providing our customers with value unmatched by anyone

- Introduce new capabilities to carefully targeted customers
- Pursue international opportunities

Data

Goal: Grow the data market and deploy advanced broadband services (DSL, VPN)

Strategy:

- i. Introduce a more complete data product portfolio
- ii. Deploy an advanced network infrastructure for data services
- iii. Expand our data competency program to improve employee's data skills
- iv. Create a data competent market image through our advertising and promotions activities
- v. Provide our customers with superior levels of customer service including:
 - Rapid repair and installation intervals
 - Multi-vendor coordination
 - Packaged billing

Infrastructure

Goal: Deploy a single advanced network and systems infrastructure to meet the needs of MTC's growth initiatives

Strategy:

- i. Service Control – provides intelligence to our network to quickly execute and control products and services we offer
- ii. Service Delivery – provides the transport and switching to support delivery of products and services
- iii. Service Support – allows us to operate, maintain, provision and bill for services

Strategic Positioning in the Years Ahead

Going forward, we see several forms of competition attacking our customer base at an accelerating pace. Regulatory/Legislative changes as well as technological advances combine to allow this competitive attack. The net result is significantly increased pressure on these revenue streams compared to the prior plan. We must invest now in productivity and revenue enhancing programs that will allow us to maintain and grow our financial performance.

The following actions are extremely critical to the long-range success of this plan and reflect the need to effectively and proactively establish MTC's competitive quality, price and cost structures in the years ahead.

1. Major movement towards bringing prices in line with market expectations (toll, access, CPE).
2. Investing expense dollars in revenue generation, productivity improvements, quality enhancements, employee development and other projects aimed at impacting the operating business.
3. Several forms of competition will attack our customer base during the plan period causing significant pressure on prices and revenues. The threats of increased long distance competition, local exchange interconnection and the potential threat of, as well as the opportunity for, new wireless technologies. MTC must invest in segmenting the market for competitive differentiation and focusing our attention on the most profitable, and therefore most competitively vulnerable, market segments.
4. Pacific Telecom/MTC management is committed to balancing the impacts of our competitive activities on our employees with the needs of our customers and shareholders. We have a skilled and dedicated workforce that requires a period of time to assimilate the modifications already accomplished before extending toward even higher levels of exemplary performance for our customers and shareholders.

Strategic Plan Summary and Objectives

The strategic direction of this year's plan includes the focus on six core strategies:

1. Execute market segment plans
2. Improve quality and cost position
3. Grow units and revenues profitably
4. Position the wireless network to meet market demands
5. Achieve significant broadband penetration in the market
6. Grow data services (DSL) and other broadband

The Changing Telecommunications Environment

The telecommunications industry will be one of significant change. Technological, competitive, regulatory and demographic changes are foreseen that will make the telecommunications industry much more contentious, but with significant opportunities for continued growth, often outside our historical sources. Reductions to the technological barriers to entry, and growth in the information economy will fuel changes in the industry.

In order to reap the rewards of the expanding telecommunications economy, MTC will have to improve its overall competitiveness by reducing its costs, bringing its prices in line with its competitors, being more selective in capital deployment and improving its overall value delivered to the customer. These actions will position MTC for major growth opportunities in broadband transport and movement into new lines of business.

Segment Strategies and Strategic Programs

The core of the Strategic Plan is built from MTC's market segment focus - understanding and responding to the needs of our various customer segments. MTC maintains its sales focus on end-users, although our plan for marketing to intermediaries is stronger during this planning period with the establishment of the Wholesale Markets group. For each of our customer segments, MTC will target its desired sub-segments and develop the capability to compete on the basis of superior overall value - balancing premium market prices with exceptional quality, customer service and value-added features.

Telecommunications as Infrastructure

The network infrastructure and the operations of that infrastructure are essential to attaining the performance objectives in this plan. The telecommunications infrastructure will hold the key to the economic development of the Marianas, and the Asia-Pacific region in general. While telecommunications has always been a consideration, its importance as a key infrastructure component is magnified because of the changing global economy and the growth of the service/information economy. Economies are much more dependent upon telecommunications for the movement of data and information than upon geographic considerations for the movement of natural resources and goods.

Pacific Telecom believes MTC must position itself with its customers as a strategic partner in their plans to compete in the global arena. MTC's future will be dramatically impacted by the ability of its customers to remain competitive in global markets. Nowhere is that more evident than in the tourism-fueled economy of the Mariana Islands.

In many respects, MTC is the only corporation with the expertise to help smaller businesses compete in these foreign markets. We will use this direct and indirect assistance to grow network usage, not only through the growth in access lines, but also by generating a growth in international minutes of use.

In this light, the infrastructure of the network is critical to serving current and future needs of all customer segments. Several strategic programs have been defined to change the nature of the way in which we do business. These changes will direct our resources towards establishing the infrastructure and operations required to address the pressing competitive challenges we face.

Wireless Communication Strategy

Worldwide, the telecommunications industry is being revolutionized by the growth in wireless communications. Both prepaid and postpaid wireless technologies have enjoyed great success in the Marianas. This section will describe MTC's assessment of the wireless industry in the Marianas, where we see the business going over the plan term, and the market strategy we will employ as a result.

Situation Assessment

Pacific Telecom's Approach

As shown in Table 1 below, the Company projects that through 2005 revenues will continue to be provided from a broad product line. Wireline revenues are anticipated to continue to comprise 84% or higher of total revenues through 2005. However, the distribution of revenues within the wireline category is anticipated to shift over this period. The Company anticipates that Local Service Revenues will increase from 21% of total revenues in 1999 to 29% of total revenues in 2005, with no competition in this segment anticipated to emerge. International Toll pricing is projected to continue to decrease. However, International Toll volumes are projected to continue to increase, largely offsetting the impact of lower per minute pricing. As a result, International Toll revenues are projected to be in excess of 30% of revenues through 2005.

The Company projects that it will be able to maintain total cash expenses at their current levels through 2005, despite projected increases in access lines and cellular and internet subscribers.

[illegible]

Table 2: Actual and Projected Key Performance Indicators

| | 1998A | 1999A | 2000A | 2001A | 2002E | 2003E | 2004E | 2005E |
|--------------------|-------|-------|-------|-------|-------|-------|-------|-------|
| Access Lines (000) | 22.6 | 23.8 | 25.0 | 25.3 | 26.5 | 27.3 | 28.1 | 28.9 |
| Total Headcount | 156 | 150 | 150 | 134 | 140 | 141 | 142 | 142 |

CITADEL

You can count on us

To the CTC,

Citadel understands the responsibility it has to the people of the CNMI because it knows how peoples lives and businesses depend on basic utilities such as telecom service.

Citadel is no stranger to the telecom business. We built an extensive network in the Visayas region of the Philippines from scratch (at a cost of about 500 million USD.), and witnessed first hand how a robust telecom network, where there had been none before, allowed people to do things they never would have dreamed of. When our state of the art network was completed by Lucent Technologies and Siemens, we successfully delivered on our promise to improve the lives of people by connecting them to the rest of the world.

Citadel has even more ambitious plans for MTC. We do not simply intend to coast along and not push hard for improvements. We intend to make MTC a platform for telecom expansion into the Western Pacific and in possibly to Europe. Obviously, if MTC's service is not amongst the best in the world, a goal which I have set, then we will encounter problems in our ambitious expansion plans. Much like the CTC, other governments and their respective commissions, would want to ensure that MTC is a company that delivers world class service at fair prices.

Moreover, Citadel plans to make other investments in the CNMI and Guam, together with other world class investors. We understand the importance of surpassing the CNMI's expectations so that we are invited to do more for the islands we have begun to feel at home in.

In short, the commission can rest assured that we will do everything in our power to keep the CNMI's telecom infrastructure up to date, that we will insist that service levels are improved, and that we will be long term investors that will be involved in making the CNMI a leader in the Western Pacific. We also want to ensure that MTC remains a company that everyone in the CNMI is proud to call their own.

Sincerely,

Jose Ricardo Delgado

Citadel Holdings Inc.

Pacific Telecom



Welcome to the World of

CITADEL

You can count on us.

Values

Businesses

Partners

People

News

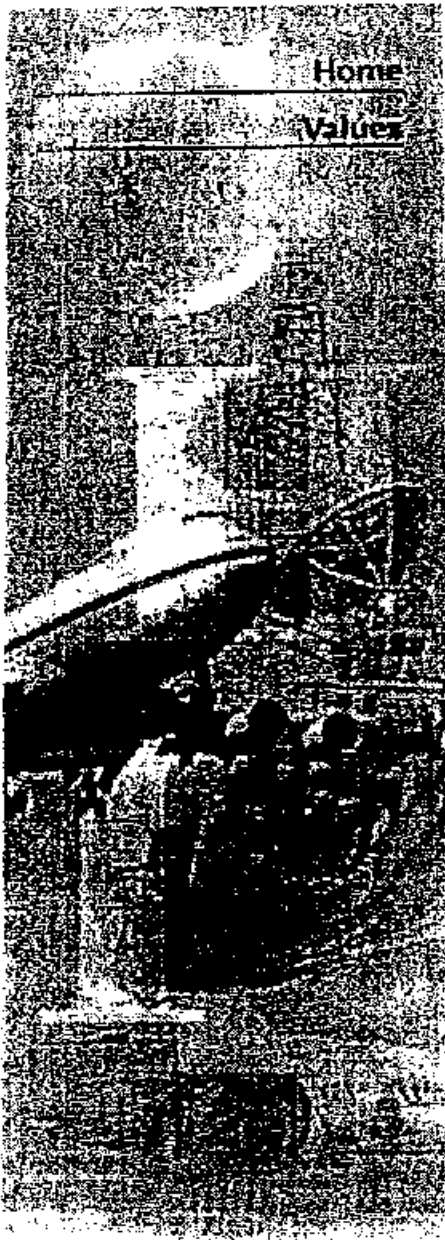
History

We are the parent company of businesses engaged in transport services, logistics and information technology.

Citadel Holdings, Inc.

4F SGVII Building,
6758 Ayala Avenue, Makati City,
Metro Manila, Philippines.

TEL: (832) 8127711 to 18
FAX: (832) 8127719



Home

Values

CITADEL

Our Vision

Having already developed the trust of our principals and joint venture partners as their extension in the Philippines, we hope to further broaden these relationships to include opportunities that can exploit the country's global competitive advantage for highly skilled labor. The drop in telecommunications costs in addition to the proliferation of the internet accelerate our plans to be the Philippine partner for multinational companies looking at outsourcing as a way to become more competitive in an increasingly global environment.

Our Mission

We aim to be a seamless extension of our clients by delivering service that exceeds even their own standards worldwide.



CITADEL

Sales
Agencies



Aviation
Services



Logistics
Services



Manpower
Services



Citadel
Ventures



Trans Pacific
Air Services

Miascor
Holdings

Rapid Air
Freight

Opportunities
Unlimited

Telekom
Phil.

Global Air
Services

Aviation
Support

Citadel
Logistics

Port
Checkers

Citadel
Lines

Exel
(MSAS)

Air Cargo
Partners



CITADEL

Our Business Partners

(You may click on the corporate logos to view their respective web sites.)

swissport 

Gate Gourmet

San Francisco, CA

malaysia 

exel 

 **Nordisk
Aviation
Products**

 **TOKYU AIR CARGO**

BAL **BALTRANS HOLDINGS LIMITED**

ADB
A Siam Company



Home

Executives

Management

CITADEL

A Heritage of Entrepreneurial Success

The Delgado family started business in 1946, when Don Francisco Delgado and his brother Don Antonio Delgado started Delgado Brothers Corporation. By the mid-60s, they had grown the business into the largest transport company in the Philippines. Over the decades, they have gone into joint ventures with the Hilton Hotel group, Jardine-Matheson, Exxon, Hyundai, Deutsche Telekom and Sea Land.

Their children continue to be active in the business they started. The original Delgado Brothers Corp. is now the joint venture partner of UPS in the Philippines. Francisco Delgado's family, of which Ricardo is the eldest son, is the largest retailer of petroleum products in the country serving Caltex, Shell, and Petron. The family continues to hold directorships in Prudential Bank (partner of Tokyo-Mitsubishi) and IBM, Phils.

The Executive Team

Ricardo C. Delgado Founded Citadel Holdings Inc. in 1985. Prior to this, he was President of the Delgado family's holding company. Mr. Delgado received an MBA from Cornell University in 1967.

Tirso D. Antiporda Formerly the Chairman and CEO of the United Coconut Planters Bank, the 6th largest bank in the Philippines, and CBF Group, a conglomerate engaged in the coconut milling business, life insurance, real-estate, and financial services.

He was previously the president of Pilipinas Bank, a partner of Bank of Tokyo / Mitsubishi. He was also a director of San Miguel Corp. from 1992-1998. He has an MBA from De La Salle University, as well as a Masters in Business Economics from the University of Asia and Pacific (formerly Center for Research and Communications).

Jovino G. Lorenzo Formerly President of Citadel Holdings Inc., Isla Communications, Consolidated Industrial Gases Inc., and President of the National Development Corporation. He started his career at Arthur Andersen Philippines, and later became a partner. Mr. Lorenzo has been with Citadel Holdings from the start of its operations. He obtained his MBA (with distinction) from the Ateneo University in 1969.

Ramon S. Monzon Prior to Citadel, he served as Chief Operating Officer of two nationwide television networks. He was formerly a partner of Arthur Andersen, Philippines. Mr. Monzon graduated with an MBA from the University of Chicago in 1976.

Jose Ricardo Delgado Prior to joining Citadel in 1999, Mr. Delgado was the Vice President of Marketing for Ictacom's mobile division. He graduated magna cum laude from Brown University in 1993 with a degree in International Relations (honors Program). Mr. Delgado also holds an MBA from Northwestern University (Kellogg Business School).



CITADEL

Corporate History

- 2000** MASCOR Ground Handling Corporation and Rapid Airfreight, Inc. gain ISO 9002 certification, symbolizing the groups' commitment to quality and service excellence.
- CHI acquires Citadel Logistics and Citadel Lines, the Philippine Sales Agent for the Hyundai Merchant Marine (HMM), a shipping line based in South Korea.
- MASCOR Catering gains the second largest market share in the in-flight catering business in the Philippines.
-
- 1999** The MASCOR Catering Corp. is inaugurated as a joint venture among MASCOR, Gate Gourmet and Malaysia Airlines.
- SWISSPORT comes in with 40% equity as a joint venture partner on the ground handling business.
- Rapid Airfreight celebrates a landmark 25th year of serving the public with world-class facilities.
- CHI sells ISLACOM to Deutsche Telekom and the Ayala Group for US\$58.5M.
-
- 1998** MASCOR Holdings invests in a joint venture with Malaysia Airlines and Gate Gourmet to establish an in-flight kitchen in Manila.
- MASCOR Ground Handling Corp. gets 30% market share in the local ground handling business.
-
- 1997** MASCOR Holdings, Inc. is created to handle the aviation services group of CHI. Under this group are MASCOR Ground Handling Corp., MASCOR Logistics Corp. and MASCOR Aircraft Maintenance Corp.
-
- 1996** Deutsche Telekom invests US\$240M in ISLACOM.
- A sprawling MASCOR Cargo Center is inaugurated to house MASCOR offices, its newly created MASCOR Logistics Corporation, and the various airline customers.
-
- 1995** ISLACOM expands operations in Manila and Northern Luzon.
-
- 1994** ISLACOM begins mobile GSM operations in the Cebu/Visayas region as the first GSM operator in the Philippines.
-
- 1993** Shinawatra of Thailand invests US\$40M in ISLACOM.
-
- 1992** ISLACOM is founded.
-
- 1990** CHI goes into joint venture with MSAS to put up MSAS operations in the Philippines.
-
- 1988** Food business commences with the acquisition of franchises for Pido Loco and Round Table Pizza.
- Trans Pacific Air Services (TRANSPAC) is organized to serve as the local General Sales Agent for Continental Airlines, Continental Micronesia and Malaysian Airlines.
-
- 1987** CHI and Hutchison bid for the Port of Manila.
-
- 1986** Citadel Holdings, Inc. (CHI) starts operations as the parent company of MASCOR and other affiliates.

PACIFIC TELECOM, INC.

ROBERT ROY ANDERSON

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Makati City 1200
Philippines
Telephone. Nos.: (63-2) 899-6469 ; (63-917) 541-1136
Email Address : rranderson1@hotmail.com

Job Objective

After forty (40) years of experience in Telecommunications (Domestic and International), I continue to seek new opportunities to ply my skills in both the International and U.S.A. markets. A senior management position requiring the organization and management of start-up projects is of particular interest.

Work Experience

Consultant

Citadel Holdings, Textron Corp. , Ofia Intl Ltd. - Manila ,Philippines

Jan 2001 - present

Chief Operating Officer

TSG Network Services, Ltd (San Jose , California ,U.S.A)

Jun 2000 - Dec 2000

Chief Consultant / Director

BayanTel / ICC Telecoms (Manila, Philippines)

Apr 1995 - Jul 1999

Was selected to the position of Chief Executive Officer (Consultant) * for ICC Telecoms . In addition, served as the Chief Operating Officer for NYNEX in the Philippines as well as a Director on the BayanTel Board of Directors.

The position was responsible to the Board of Directors for BayanTel and ICC Telecoms for every aspect of the ICC operations, including profitability. This included contract negotiation and project management for the 330,000 lines local exchange project in Metro Manila in addition to installation, marketing and operation of an International Gateway Facility.

The position reported directly to the Board of Directors of ICC Telecoms/ BayanTel and the Vice Chairman of BayanTel. The scope of this position was broad, the investment as a start-up operation was heavy (business case estimated nearly 1/2 billion US dollars over several years for Local Exchange and International Gateway switches alone) and was responsible for every aspect of the company's operating units. In short, a CEO position. During the first three(3) years of operation,

BayanTel /ICC Telecoms had distinguished itself as the most formidable of the nine (9) new carriers in the Philippines.

Senior Vice President - Operations and Maintenance
TelcomAsia Corp. Public Co., Ltd. (Bangkok, Thailand)

Aug 1992 - Apr 1995

Was assigned as the Senior Vice President for Operations and Maintenance (O&M) for TelcomAsia, Bangkok, Thailand in August 1992. At that time, the department comprised four people, had no systems, equipment or staff in place to operate the two million-line network scheduled to be built in Bangkok.

Was required to immediately staff critical positions, and to develop work plans, schedules and operational support systems that enabled them to operate the first line placed into service in October 1992. In a short time, the department was expanded to over five hundred people with four hundred thousand (400,000) lines-in-service at year 1994 and nearly one billion calls switched through the new network. Billing systems were functioning and service provided for both installation and repair was regarded as very good. Given the scope of the project (approximately two billion USD), its complexity (multiple vendors interconnecting to an existing network), and the many obstacles facing the construction and maintenance of a network in a densely populated urban environment, the results were outstanding.

The Senior Vice President was responsible to direct the development of a competent workforce and processes to deliver quality service to the rapidly expanding customer base. This was accomplished while successfully directing the technology transfer process to the vast majority of the O&M employees who were Thai nationals.

Managing Director - Operations
NYNEX Network Systems Co., (HongKong)

Jan 1991 - Aug 1992

Was responsible for the management of NYNEX Network Systems operations in Asia/Pacific region. Responsibilities included resource allocation, staffing, project management and overall executive responsibility in direct support of the Senior Vice President.

Was also directly responsible for the establishment of NYNEX operations in various locations throughout Asia. Specifically, these included Indonesia, Malaysia, Philippines, Thailand and Hongkong. During its early stages, NYNEX rapidly established itself throughout the region with the operations group playing a key role.

Director - Outside Plant Operations
NYNEX Service Company (New York, NY)

Jan 1990 - Jan 1991

Working at NYNEX corporate level, was assigned as Director of Outside Plant Engineering for the NYNEX Telesector Resources Group (TRG). While in this capacity, was responsible for several large projects ranging from automated provisioning (REDISERV) to the expansion of optical fiber cable in the exchange feeder network. Was also responsible for establishing a standard set of Outside Plant engineering guidelines.

Managing Director - Financial Assurance/Planning
New England Telephone Company - (Boston , MA)

Feb 1988 - Jan 1990

Was responsible for directing the Customer Service Department's funding , resource allocation, and strategic planning in direct support of the vice president and six general managers.

Worked directly with the vice president in the development of policy, objectives ,funding and allocation affecting a workforce of approximately thirteen thousand (13,000) employees and an annual budget in excess of one billion US dollars. Work on the assignment was instrumental in persuading the corporation to increase investment in the Outside Plant infrastructure. A business case process for rehabilitation was also established that is now being used across the NYNEX region.

Special Assignment

NYNEX Service Company - (New York, NY / Boston, MA)

May 1988- Aug 1988

Was selected by the Vice President for Distribution Services to lead a company-wide campaign aimed at reducing operating costs without jeopardizing service. Work on this project was rated exceptional, resulting in a leaner, more effective operation. Immediate annual savings of \$25 million were identified with action plans and timetables.

Was also asked to either chair or serve on nine active committees ranging from labor relations to management training. Work on these was also rated as exceptional. Performance was characterized as "decisive", "best organized and effectively executed plan the department has seen in some time", and "showed an unusual capacity to get things done through others not in his organization".

General Manager - Rhode Island/Southeast Massachusetts
New England Telephone

Jan 1979 - Feb 1988

Was responsible for large workgroups (800 to 1200 people) in this respective areas with operating budgets in excess of 100 million US dollars annually.

Was instrumental in introducing wide-scale deployment of digital switching and fiber optic technologies. Was also instrumental in bringing both areas from poor to superior operating results.

Various Positions

New England Telephone

Feb 1962-Jan 1979

Was hired as an outside plant construction technician. Worked at various craft and supervisory positions involving construction, engineering, installation and repair responsibilities. Was regularly cited for outstanding performance and potential. As a consequence, was given a variety of challenging assignments and steadily rose through the ranks to the fifth level of management.

Education

Northeastern University - Boston, MA
Major : Business Administration
Degree : Bachelor of Science (Honors) - 1979

Babson College - Wellesley, MA
Major : Strategic Planning
Degree : Certificate - 1987

Duke University - Durham, NC
Major : Financial Management - Telecommunications
Degree : Certificate - 1989

Bellcore Technical - Lisle, Illinois
Course : Digital Loop Technology
Degree : Certificate - 1980

Have attended various technical, administrative and management courses over the years that were sponsored by AT & T and New England Telephone.

References

Have considerable experience with managing large and diverse team sizes, major projects, labor management negotiations and vendor contracts. Have managed these operations through periods of heavy growth, recessions, and worked through a generation of technological change. Throughout this period, performance and results have been consistently rated in the superior range.

* Philippine law prohibits a foreigner from directly managing a telecommunications company

CITADEL

You can count on us

JOSE RICARDO P.R. DELGADO

Business Address:

520 Buendia Avenue Extension
North Forbes Park, Makati City
810-7688 / 810-7690

Education:

1995-1997

**J.L. Kellogg Graduate School of Management
Northwestern University, Evanston, IL**

Master of Management degree, June 1997

- Majors in Finance, Management and Strategy and Organizational Behavior
- Member of Finance, Marketing and Investment Banking Clubs

1989-1995

Brown University, Providence, RI

- Bachelor of Arts in International Relations and European history
- Magna Cum Laude
- Awarded Honors in International Relations for thesis on economic development in the Philippines
- Vice-president Brown International Organization 1992-1993
- Organized International Orientation 1991-1992
- Intramural Basketball Team Captain 1990, 1991 and 1993

Instituto Americano, Madrid, Spain

Foreign Exchange Student, spring 1992

- Coursework in European Political Economy, European History and Spanish

Experience:

Jan. 2001
to present

Citadel Holdings Inc., Manila, Philippines

Vice president for Business Development/Chief Investment Officer

July 2001
to present

Miascor Holdings Inc., Manila, Philippines

President

Sept. 1998
to Dec. 2000

Citadel Holdings Inc., Manila, Philippines
Chief Financial Officer

Summer 1996

Isla Communications Company, Manila, Philippines

Summer Associate Corporate Planning

- Recommended and oversaw the shift from a functional to a divisional structured organization
- Developed marketing and advertising strategy for 1996-1997
- Set up cross-functional teams for tasks that required coordination between divisions
- Wrote copy and supervised execution of three television commercials
- Participated in the negotiations with Deutsche Telekom, which acquired 35% of the company for \$243 million

1993-1995

Isla Communications Company, Manila, Philippines

Executive Assistant to the President

- Formulated marketing and advertising strategy for cellular and paging divisions
- Supervised a team that started initial cellular operations in Cebu
- Successfully negotiated contracts with mobile phone and pager suppliers that yielded lower costs of handsets and pagers in the industry
- Assisted investment bankers in the preparation of the company's information memorandum
- Represented company in presentations for government and business leaders
- Actively participated in the management committee of family holding company, involving strategic planning and employee relations

Other Data:

- Alumni Head of Brown University in the Philippines
- Fluent in Spanish and Filipino
- Enjoy basketball, scuba diving and boxing

Reference:

Available upon request

CITADEL

You can count on us

RAMON S. MONZON

Business Address:

2 Spinach Street, Valle Verde 5
Pasig City, Philippines

Professional experience:

- | | |
|--------------|---|
| 1996-Present | Citadel Holdings Inc. Executive Vice-President, Chief Operating Officer & Chief Financial Officer (A holding and management company with subsidiaries in telecommunications, aviation services, international freight forwarding, general sales agencies of airlines, and other service industries) |
| 1986-Present | Carousel Productions Inc. President & CEO (Personally-owned company engaged in the production and marketing of television programs) |
| 1989-1996 | Pacific Rim Export & Holdings Corp. President & CEO (A holding and management company with subsidiaries engaged in boat building and in the export manufacturing of various products) |
| 1984-1986 | Radio Philippines Network (Channel 9) Intercontinental Broadcasting Corp. (Channel 13) Banahaw Broadcasting Corp. (Channel 2) Sining Makulay Inc. (Cable Channels 5 & 10) Executive Vice President & COO |
| 1980-1984 | SYCIP Gorres Velayo & Company Partner (Biggest regional accounting firm in Southeast Asia previously representing six of the ten Big 8 firms in the region. Organized and headed the Tax Compliance Group and also responsible for the audit engagements of some of the top 50 Philippine companies) |

1976-1980 **Arthur Young and Company, Chicago, Illinois**
 Senior Staff
 (One of the Big 8 International accounting firms. Participated in various audit and management consulting engagements initially as staff and eventually as the Engagement supervisor)

Summer 1975 **Walter E. Heller & Company, Chicago Illinois**
 Financial Analyst
 (An international finance company engaged in factoring and consumer financing)

1970-1972 **ABS-CBN Broadcasting Corporation**
 Assistant TV Operations Manager
 (One of the largest radio television network in the Philippines)

Education:

1980 **Manuel L. Quezon University**
 Bachelor of Science in Commerce - Major in Accounting

1974-1976 **University of Chicago**
 Master of Business Administration (MBA)
 Concentrations in Finance and Accounting

1971-1974 **University of the Philippines**
 Enrolled for 2 1/2 years at the College of Law

1967-1971 **Ateneo De Manila University**
 Bachelor of Arts - Major in Political Science

1956-1967 **De La Salle College**
 Completed Grade School and High School Education

Personal and other data

Date of Birth: March 28, 1950

Marital status: Married with 3 children

Height: 5 feet and 6 inches

Weight: 180 pounds

 Certified Public Accountant - April 1981

Member: Board of Regents



JOVINO G. LORENZO

Education:

- | | |
|------|--|
| 1969 | Ateneo De Manila University Master in Business Management (with Distinction) |
| 1960 | Ateneo De Manila University Bachelor of Arts in Economics (with Honors) |
| 1956 | Ateneo De Manila University High School (with Honors) |
| 1952 | Ateneo De Manila University Grade School (with Honors) |

Career Background:

- | | |
|-------------------------------|---|
| President & CEO | Asia Overnight Express Corp. Citadel Lines, Inc. Citadel Logistics Inc. Asia Ports & Shipping Services Inc. Citrade International Inc. |
| Chairman and President | POACO Inc. Felor International Holdings Corp. |
| Vice Chairman of the Board | Citadel Holdings Inc. MIASCOR Holdings Inc. MIASCOR Aircraft Maintenance Corp. MIASCOR Logistics Corp. |
| Director | MIASCOR Ground Handling Corp. Global Air Service Inc. (General Sales Agent for Korean Air) Isla Finance Corp. |

Isla Holdings Inc.
Rapid AirFreight Inc.
Trans Pacific Air Service Corp. (General Sales Agent for Continental Airlines,
 Air Micronesia, Hawaiian Airlines)

Previous Position:

| | |
|------------------------------------|---|
| Vice Chairman of the Board | Consolidated Industrial Gases Inc. Southern Industrial Gases Inc. |
| Assistant General Manager | National Development Company |
| President | Isla Communications Co. Inc. National Marine Corporation National Stevedoring & Lighterage Corporation National Trucking & Forwarding Corporation National Slipways Corporation National Chemical Carriers Inc. Davao Integrated Port & Stevedoring Services Corp. POACO, Inc. Consolidated Industrial Gases, Inc. |
| Director | Luzon Integrated Services Inc. National Shipping Corporation of the Philippines Inc. Semirara Coal Corp. Usiphil Inc. (Caterpillar Distributor) The International Corporate Bank |
| Member, Management Committee | Philippine Shipyards & Engineering Corp. |
| Principal | Syup Gorres Velayo & Co. Management Services Division |

Social/Civic Club Affiliations:

| | |
|-------------------|--|
| Member | Management Association of the Philippines |
| Charter President | Rotary Club of Parañaque-Multinational |
| Member | Manila Yacht Club |

CITADEL

You can count on us

RICARDO "RICKY" C. DELGADO

Business Address:

SGVII Bldg. 4/F 6748 Ayala Ave., Makati City

Personal:

Civil Status: Married

Spouse: Maria Luisa Perez-Rubio

Children: Four

Current Affiliations:

Chairman Asiacom Philippines, Inc.
Citadel Foods Corp.
Isla Foods Corp.
Pacific Telephone Co., Inc.
Port Checkers Corp.

Chairman & President Delcor Investment Corp.

Vice Chairman Citadel Holdings Inc.
Global Air Services
Citco Shipping Service Inc.
Manila Integrated Airport Services Corporation

Director Karilagan International Travel & Tours Corp.
Pilipinas Bank
Trans Pacific Air Services Corp.

Educational Background:

San Beda College
Ateneo de Manila University
University of the Philippines
Commel University
Harvard University

TAN HOLDINGS CORPORATION OVERVIEW

Founded in 1972 on Guam to conduct shipping, real estate and movie distribution businesses, Tan Holdings Corporation (THC) is a diverse holding company, which today operates leading companies in more than a dozen industries in the Western Pacific. The company moved its headquarters to Saipan in 1983, where it is now the largest private taxpayer and employer in the Commonwealth of the Northern Mariana Islands.

THC currently operates business ventures in the following industries: apparel manufacturing, logistics services, ground handling services, fishing, real estate, amusement, fast food, movie theatres, hotels, travel, insurance, wholesale, information technology, publishing and an all-cargo regional airline. It also has investments in banking and cable television.

The corporate vision of Tan Holdings is to become one of the most admired companies in the Western Pacific. To achieve this, it has maintained a philosophy of making continuous improvements, particularly in technology and human resources training. A core business philosophy utilized throughout its business ventures is to leverage the group's logistics and IT capabilities to provide customers with value-added services.

Achievements in these areas contributed to two recognitions by the prestigious Hong Kong Management Association. The "2001 Award of Excellence" was awarded to the group based on a set of criteria focusing on leadership, strategic planning, customer and market focus, information and analysis, human resources focus, process management, and key business results. Additionally, the company was recognized with the "2001 Best Practices in Supply Chain" award.

Several of the affiliates of Tan Holdings hold ISO 9002 certification for quality management practices. Additionally, the apparel manufacturing group of Tan Holdings is SA 8000 certified for social accountability and is a founding member of a special partnership between the U.S. Department of Labor OSHA Division and the Saipan Garment Manufacturers Association called "Excellence 2000."

THC views its involvement in community activities as an opportunity to help improve the quality of life where the company does business. In 2002, the company formalized its philanthropic activities with the incorporation of the new Tan Holdings Foundation, a non-profit organization tasked with maximizing the long-term value of the company's charitable donations, encouraging employee involvement in local activities, as well integrating corporate contributions into the company's vision for the future.

Headquarters

Tan Holdings Corporation
P.O. Box 501280
Saipan, MP 96950 USA
(670) 322-9006 / facsimile 322-9202

Key Officers

Tan Su Lin, Chairman
Willie Tan, President
Jerry Tan, Exec. Vice President

FCC IB DOCKET NO. 02-111

**JOINT OPPOSITION OF BELL ATLANTIC
NEW ZEALAND HOLDINGS, INC. AND PACIFIC
TELECOM INC. TO PETITIONS TO DENY AND
INFORMAL OPPOSING COMMENT**

EXHIBIT D

Confidential

Pacific Telecommunications Inc.

A Pacific Powerhouse
Submitted by Citadel

Presentation to the CTC;

Thursday, June 13, 2002

Our vision

- To become the largest and most technologically innovative telecommunications provider in the Western Pacific.

Strategic Plans

Pacific Telecom understands that in order to achieve its goal to be the predominant telecommunications carrier in the Western Pacific, it will require investment in:

- Equipment and Infrastructure (cumulative 2002 - 2005 capital expenditure projections of US\$16.1 million provided within transfer application)
- Software and Technology
- Human Resources and Community Development

Moving to the Future

- Wireline

- We are dedicated to growing the existing wireline business, overtime the focus of the existing wireline business will be made consistent with the focus of new business development to cope with diverging customer segments.
- Pacific Telecom will continue to work with equipment vendors to maintain a state of the art network in the CNMI.

Moving to the Future (cont'd)

- Eventually Pacific Telecom intends to offer fixed line services in Guam offering consumers alternatives to GTA.
- Continue to operate the CNMI's network at 99.9% reliability.

Moving to the Future

- **Wireless**

- Already having the largest digital network serving the CNMI, Pacific Telecom plans to increase capacity and coverage by 60% within the next 24 months (Saipan, Rota and Tinian).
- We will upgrade the switching capabilities in order to offer any enhanced services that our telecom vendors offer worldwide.
- We will pursue additional spectrum allocations within the region to cater to markets yet unserved.
- We plan to aggressively grow our customer base by offering our services at reasonable prices with the widest reach.

Moving to the Future

- Long Distance

We will expand our carrier relationships and immediately after closing will enter into at least three additional relationships.

Prepaid services will continue to be aggressively priced and marketed.

Customized calling plans will be tailored to fulfill the diverse needs of the CNMI's population.

We have plans to invest heavily in fiber optic capacity from the US mainland in order to compete with Guam as a regional hub.

Moving to the Future

- Data

- We will be rolling out Digital Subscriber Line Service (DSL) as a mass market product.
- Expand broadband capacity to support VOD services (video on demand), as an alternative media/entertainment choice for consumers.
- Continue to support ISP operations by expanding modem pools.
- We are currently studying expanding our fiber backbone from Guam to offer additional capabilities and services at more economical prices to the consumer.

Support Services

- Pacific Telecom fully understands in order to successfully rollout various infrastructure projects, robust support service are needed
- In the 12 months after closing, Pacific Telecom will upgrade MTC's customer billing system in order to simplify the customer experience.
- With a TSA in place after closing, Verizon will continue to offer training programs for employees in engineering, customer service and operations.
- We also plan to offer operator services to US companies by 2003, which could bring an additional 300 jobs or more to the CNMI economy.

People are our Future

- Pacific Telecom's commitments:

- There is a signed agreement in place to maintain ALL existing employees and we will continue to be the employer of choice in the CNMI
- The union contract covering over 50% of the employee base at MTC has been successfully negotiated and signed 4Q2001 and will be honored through end of 2004.
- Realizing people are our greatest asset, Pacific Telecom will focus on incentives toward it's employees to achieve our strategic plan objectives.
- We will align our corporate objectives with those of the employees so that as the company grows the workforce will continue to expand

Serving the Community

- We know that historically MTC has played an active role in the CNMI community. We plan to do the same if not more.
- We will continue to sponsor fine causes that enhance the lives of people in the region.
- We will focus on environmental, and social causes.

Conclusion

- With the successive mergers of NYNEX-Bell Atlantic-GTE to form Verizon, Verizon has determined MTC to be non strategic.
- MTC is strategic for Pacific Telecom and we believe that we have the right strategy focusing on robust capital expenditure to grow this asset, ensure the highest quality service, and to provide continuous training and incentives to our people to allow them to be the best they can be.
- With the right mix of management, capital, and people, we are confident we will achieve our ambitious agenda.

FCC IB DOCKET NO. 02-111

**JOINT OPPOSITION OF BELL ATLANTIC
NEW ZEALAND HOLDINGS, INC. AND PACIFIC
TELECOM INC. TO PETITIONS TO DENY AND
INFORMAL OPPOSING COMMENT**

EXHIBIT E

FILED
Clerk
District Court

DEC 13 1991

For The Northern Mariana Islands
By SA (Deputy Clerk)

FREDERICK A. BLACK
United States Attorney
RICHARD W. PIERCE
Assistant United States Attorney
NORTHERN MARIANAS DISTRICT
Horiguchi Building, Third Floor
P.O. Box 377
Saipan, MP 96950
Telephone (670) 234-9133
Telecopier (670) 234-9159

Attorneys for United States of America

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
L & T INTERNATIONAL)
CORPORATION,)
)
Defendant.)
_____)

CRIMINAL CASE NO. 91-000

PLEA AGREEMENT

The Defendant L & T INTERNATIONAL CORPORATION ("L&T"), and the UNITED STATES ATTORNEY for the Districts of Guam and the Northern Mariana Islands, agree as follows:

1. L&T will plead nolo contendere to a one count information that charges a violation of 18 U.S.C. § 1001. L&T contends that it has not violated the Fair Labor Standards Act

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1
2 and expressly reserves the right in any civil proceeding to
3 contest any allegations of such violations.
4

5 2. The maximum penalty for L&T is a criminal fine in
6 accordance with 18 U.S.C. § 3571, a period of probation of one
7 to five years, a mandatory assessment of \$200.00 (U.S.S.G. §
8 SE1.3), and restitution.
9

10 3. The parties agree that restitution is not appropriate
11 in that economic injury to the employees is being addressed in
12 a civil law suit, Lynn Martin, Secretary of Labor v. American
13 International Knitters Corporation, et al., Civil No. 91-0027
14 (D.N.M.I.).
15

16 4. The parties agree that the appropriate fine is
17 \$500,000.00, to be paid in installments as follows:

18 The day of sentencing -- \$ 40,000.00

19 Quarterly thereafter -- \$ 38,333.33 per quarter,
20 with interest accumulated at the legal rate, the accumulated
21 interest to be paid on the last payment. The parties intend for
22 this fine to be binding, pursuant to Rule 11(e)(1)(C), Federal
23 Rules of Criminal Procedure. Should the Court find that a higher
24 sentence is appropriate under the law, the defendant will have
25 the right to withdraw its plea.
26

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2
3 5. The parties agree that the Defendant should be placed
4 on probation for a period of three years. Upon a violation of
5 the terms of probation, the Defendant may be resentedenced with a
6 greater fine and an additional period of probation with more
7 stringent conditions.

8 6. The terms of probation shall include:

9 a. Timely payment of fine installments;

10 b. Quarterly publication to the Chinese team leaders
11 and to the directors, shareholders, and management employees of
12 the Defendant L&T and each of the related corporations --
13 American International Knitters Corporation, American Investment
14 Corporation, Pacific Garment Manufacturing Corporation, and
15 Pacific International Corporation, hereinafter "related
16 corporations" -- of the criminal information, plea agreement and
17 final judgment in this criminal action, in both the English and
18 Mandarin languages;

19
20 c. Quarterly reports, with the first due one month
21 after sentencing of:

22 1) the fact of publication as required by
23 subparagraph 6(b);

24 2) any direct or indirect transfer of monies, debt
25 instruments or anything of value that originates or is secured
26 in whole or in part from or by money or checks of or wages or

1
2 overtime legally due or given to any employees of L&T or a
3 related corporation from any person or individual, to any agent
4 employee, director, manager, partner, relative, joint venturer
5 shareholder, or supplier of goods, service, material, or labor
6 to, of or for Tan, Siu Lin; any individual related by marriage
7 or blood to the second degree to Tan, Siu Lin; or any person in
8 which Tan, Siu Lin or any blood relation or relative by marriage
9 of Tan, Siu Lin to the second degree has any interest through
10 debt instrument, stock ownership, rights to profits or income,
11 or any other means (transfers made on Saipan to retail stores
12 for purchases or to banks on Saipan for deposit in the account
13 of the employee are exempt from this disclosure);

14 (The report on transfers will include the date of the transfer,
15 to whom and from whom the transfer is made, by name, address, and
16 telephone number, a statement attesting to the purpose of the
17 transfer, the value of the transfer, and the means by which the
18 transfer was accomplished, such as electronic transfer, and any
19 account numbers with the name of the relevant financial
20 institutions involved in the transfer.)

21
22 3). Each person owned or controlled by or jointly
23 owned or controlled by a) Tan, Siu Lin, b) any stockholder of L&T
24 or a related corporation, c) an individual related by blood or
25 marriage to the second degree to Tan, Siu Lin, or d) a person
26 owned or controlled or jointly owned and controlled by any

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individual or person that falls under (3)(a), (3)(b) or (3)(c).
(The report required by c(3) will include the name, address, and
telephone number of the person owned or controlled, and the name,
address, and telephone number of the owner or controller. A
person or individual owns or controls another person if the
person or individual has ten per cent or more of the assets,
liabilities, voting stock, or other measure of control or right
to profits or assets of the other person. Persons or individuals
jointly own or control another person if they collectively have
50 per cent or more of the assets, liabilities, voting stock, or
other measure of control or rights to profits or assets of the
other person.)

As used in this subparagraph 6(c), the word "person" means
any entity, cooperative, association, partnership, organization,
company, corporation, joint venture, or quasi-government group
organized or existing under the laws of any jurisdiction in the
world.

The report required by subparagraph 6(c) will be made in
writing, under oath, by the executive officer of L & T, to the
United States Probation Office and to the United States Attorney
for the District of the Northern Mariana Islands.

a. L&T or a related corporation shall not violate any

7. In consideration for the plea to the felony outlined in the criminal information and the agreement as stated herein, the United States of America will bring no further criminal charges against L&T or a related corporation or individual director, manager, officer, or stockholder of L&T or a related corporation based in whole or in part on 1) the under payment of employee wages or overtime that occurred prior to August 1, 1991, or 2) the false statements, set forth in the criminal information. This paragraph does not preclude charges for violating the terms and conditions of probation as set forth herein, or any criminal acts after August 1, 1991, such as, but not limited to, false statements, perjury, obstruction of justice, or false claims made in relation to the defense of LYNN Martin, Secretary of Labor v. American International Knitters

1
2 Corporation, et al., Civil No. 91-0027 (D.N.M.I.). This
3 paragraph is intended to preclude charges based on events that
4 occurred prior to August 1, 1991, in relation to the payment or
5 lack of payment of employee wages and overtime and the resulting
6 investigation by the U.S. Department of Labor, including but not
7 limited to violations of the Fair Labor Standards Act or
8 regulations issued thereunder, violations of 18 U.S.C. 1001 or
9 any other crime making it a crime to make false statements to a
10 federal official, violations of the mail or wire fraud statutes,
11 the laundering of money taken from the employees, and
12 conspiracies to commit these crimes.
13

14 8. L&T will cause a corporate resolution to be duly passed
15 by its Board of Directors authorizing a named individual to enter
16 the agreed plea and to sign the agreement on behalf of the
17 Defendant, with a certified copy of such resolution to be filed
18 with the court at the entry of the plea.
19

20 9. The use of this plea agreement and L&T's plea of nolo
21 contendere in any other proceeding is governed by 410, Federal
22 Rules of Evidence.
23

24 //

25 //

26 //

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1
2 10. This is the complete agreement between the parties
3 There are no other terms.
4
5

6 FREDERICK A. BLACK
7 United States Attorney

8 By *R W Pierce*
9 RICHARD W. PIERCE
10 Asst. United States Attorney

11 L & T INTERNATIONAL CORPORATION

12 By *[Signature]*
13
14 ROBERT J. O'CONNOR
15 Attorney for L&T Corporation
16
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12/17/91
Date

12/13/91
Date

12/13/91
Date

FCC IB DOCKET NO. 02-111

**JOINT OPPOSITION OF BELL ATLANTIC
NEW ZEALAND HOLDINGS, INC. AND PACIFIC
TELECOM INC. TO PETITIONS TO DENY AND
INFORMAL OPPOSING COMMENT**

EXHIBIT F



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Order 2000-10-2

Served: October 2, 2000

Issued by the Department of Transportation
on the 2nd day of October, 2000

Application of

**AERO MICRONESIA, INC.
d/b/a ASIA PACIFIC AIRLINES**

**Dockets OST-98-3404
OST-98-3479**

for renewal of its certificates of public convenience and
necessity to engage in interstate and foreign charter air
transportation of property and mail

ORDER ISSUING PERMANENT CERTIFICATE AUTHORITY

Summary

By this order, we find that Aero Micronesia, Inc. d/b/a Asia Pacific Airlines (Asia Pacific) continues to be fit, willing, and able to provide interstate and foreign charter air transportation of property and mail, and we reissue to it certificates of public convenience and necessity making permanent the authority it now holds on a temporary basis.

Background

By Orders 98-10-6 and 98-11-11, served October 5 and November 16, 1998, respectively, we found Asia Pacific to be fit, willing, and able to conduct all-cargo charter operations under section 41102 of Title 49 of the United States Code ("the Statute") for a period of one year. The one-year limitation was imposed due to our concerns about whether the troublesome compliance history of companies related to the applicant would have a deleterious effect on Asia Pacific's own disposition to comply with the laws and regulations applicable to its operations.¹ The certificates became effective on March 29, 1999,² and, hence, would expire on March 29, 2000, unless Asia Pacific had filed a timely application for permanent authority, which it did on February 14, 2000.³

In support of its request for permanent authority, Asia Pacific provided updated fitness information. Upon review of the information submitted, together with information from the

¹ See discussion in Show Cause Order 98-9-20, served September 18, 1998, at 8-9.

² See Order 99-3-30, served April 6, 1999.

³ The orders issuing the carrier authority required that it file a renewal application with updated fitness information at least 45 days prior to the expiration date. Since the expiration date, the carrier's authority to operate was continued in accordance with §377.10 of the Department's rules.

Federal Aviation Administration (FAA), we conclude that Asia Pacific continues to be fit, willing, and able to conduct the operations for which it holds authority. As more fully discussed below, the FAA reports that the carrier is currently conducting its operations in a satisfactory manner, and other information available indicates that the carrier has otherwise maintained an acceptable compliance record. Therefore, we will reissue its certificates on a permanent basis.

The Carrier

Asia Pacific currently operates one B-727-200 aircraft in cargo service in the Pacific area. The company's primary operation includes transporting fresh fish between the Federated States of Micronesia (FSM) and Palau, Guam, and Saipan. It also operates a weekly charter flight between Hong Kong and Saipan transporting fabric, and has recently received a U.S. Postal Service contract to transport mail between Honolulu and Saipan via Majuro and the FSM.

Although the carrier has no specific plans at this time to undergo any substantial changes in its service, Asia Pacific indicates that, if sufficient traffic develops, it may add a second aircraft to its fleet.⁴

Management

Asia Pacific has not undergone any significant changes in management personnel since we last found it fit in March 30, 1999. Mr. Michael R. Quinn continues to serve as the carrier's President and on the board of directors. Mr. Jerry L. Tan serves as Secretary, Treasurer and is also a member of the board. Mr. George Chiu continues to serve as Vice President of Finance and a member of the board. Mr. Robert Walker continues in the position of Vice President of Marketing. Mr. Stephen L. LeaVell continues as Director of Operations. Ms. Alicia Atalig, who was serving as Director of Safety at that time, has since assumed the position of Chief Pilot. The qualifications of all of these individuals were discussed in Order 98-9-20. In addition, Mr. Idris Parry, formerly the carrier's Chief Inspector, is now its Director of Maintenance. His qualifications were discussed in Order 99-3-30. New to the company since our last review are Mr. Joseph San Agustin, Director of Safety, and Mr. Theodore Escobar, Chief Inspector.⁵

Upon review of the experience and background of Asia Pacific's key personnel and the fact that most of them have been managing the carrier's operations since its inception, we conclude that

⁴ The carrier is currently authorized to operate up to two aircraft without having to undergo any further fitness review.

⁵ Mr. Agustin received his aviation training as a pilot while serving in the U.S. Navy from October 1992 to March 1999. He joined Asia Pacific as Director of Safety in May 1999. Mr. Agustin holds an FAA Airline Transport Pilot certificate and has accumulated over 3,900 flight hours. Mr. Escobar began his aviation career with the U.S. Air Force as an aircraft mechanic. After being employed by Dynallectron Corporation as an aircraft mechanic from December 1962 to July 1965, he served in various maintenance supervisory positions with Continental Airlines from July 1965 to February 1978 and from September 1981 to July 1986. In the interim, he was employed by West Coast Grocery as a Vehicle Maintenance Manager and as Supervisor of Terminal Maintenance at Los Angeles Airport. Upon leaving Continental in July 1986 until joining Asia Pacific as Chief Inspector in August 1999, he was employed by Dynair Corporation as Maintenance Manager, Hawaiian Airlines as Chief Inspector and Director of Quality Control, and Airport Group International as Manager of Fueling and Technical Services. Mr. Escobar holds an FAA Airframe and Powerplant Mechanic certificate.

Asia Pacific has the necessary management skills and technical ability to continue to conduct its operations.

Financial Posture

Asia Pacific provided unaudited financial statements for the year ended December 31, 1999, and for the five months ended May 31, 2000.⁶ As of December 31, 1999, the company had current assets of \$823,500 and current liabilities of \$4.5 million, giving it negative working capital of approximately \$3.7 million and a current ratio of 0.18:1. It had negative stockholders' equity of approximately \$1.7 million. As of May 31, 2000, the carrier had a current ratio of .34:1, negative working capital of \$3.3 million and negative stockholders' equity of \$1.3 million.

However, as this company is closely held and many of its debts are owed to related companies and shareholders, its ability to pay its vendors is not accurately reflected by these numbers. If we remove from current liabilities the debts owed to related parties (approximately \$3 million as of May 31, 2000), Asia Pacific's current ratio improves to 1.3:1 and its working capital position to \$450,297. Because the related parties have a vested interest in the carrier, the adjusted current ratio may be a better indicator of the company's ability to pay its debts when due and to continue operations. Moreover, after a net loss of \$1.85 million for the year ended December 31, the carrier had a small net profit of \$21,500 for the five months ended May 31.

In view of the above, it appears that Asia Pacific continues to meet our financial standard and has access to sufficient financial resources to conduct its operations without posing any undue risk to its consumers or their funds.

Compliance Disposition

As indicated above, Asia Pacific's certificate authority was initially limited to period of one year due to our concerns about the troublesome compliance history of companies related to the carrier. In this regard, we noted in Order 98-9-20 that Asia Pacific is a subsidiary of Consolidated Transportation Services, Inc. (CTSI), a company engaged in international air and ocean freight forwarding services. CTSI is a wholly owned subsidiary of Tan Holdings Corporation (Tan), which has a number of other subsidiaries engaged in various businesses including garment manufacturing, real estate development, and commercial fishing. Tan, in turn, is owned by members of the Tan family through six family trusts. Mr. Siu Lin Tan, the head of the Tan family, serves as trustee for all of the trusts.

In the course of reviewing Asia Pacific's applications for initial certificate authority, we discovered various lawsuits and other charges of violations of federal laws involving the Tan companies, in particular those involved in garment manufacture, by the Departments of Labor and Interior and the Occupational Safety and Health Administration. While most of these charges involved problems in the late 1980's or early 1990's, they were nevertheless serious enough to cause us question whether Asia Pacific could be relied upon to operate in full

⁶ Accompanying its application for renewal of its certificates, on February 14, 2000, Asia Pacific filed a motion to withhold the December 1999 financial statements from public disclosure. On September 13, 2000, the carrier withdrew that request.

compliance with applicable rules while under the ownership of Tan. We concluded that the prudent course of action would be to limit Asia Pacific's authority to a period of one-year, during which time we would monitor its operations and compliance disposition.

As part of its application for renewal of its authority, Asia Pacific supplied information related to certain pending class action lawsuits involving Tan and a number of other garment manufacturers and major clothing retailers that were filed in January 1998. One of the lawsuits contains a variety of claims alleging that retailers and manufactures conspired to violate various laws relating to the employment of Chinese workers in Saipan. Other claims relate primarily to alleged exorbitant recruitment fees charged by middlemen. The second lawsuit alleges that manufacturers failed to pay overtime in violation of the Fair Labor Standards Act. The carrier contends that the lawsuits have no merit and that Tan is vigorously defending itself in these suits. Moreover, it argues that these suits are not relevant to Asia Pacific since the airline is independently managed by a team of aviation professionals.

Asia Pacific also states that, since its most recent fitness determination, there have been no actions or outstanding judgments filed against it or its key personnel.

Our review of FAA records reveals that, although there is one open FAA enforcement action pending against the carrier,⁷ it has been involved in no accidents or incidents. Moreover, the FAA indicates that it knows of no reason why the Department should act unfavorably on the carrier's application for renewal of its certificates.

On the basis of this information, we believe that Asia Pacific continues to have the necessary disposition to comply with the laws and regulations governing its operation. The carrier appears to be conducting its operations in a satisfactory manner, and there is no indication that any of the pending class action suits involving related companies are indicative of Asia Pacific's compliance disposition. Moreover, since Asia Pacific was found fit, there have been no further allegations by government entities of violations of Federal laws involving the Tan companies. We will, however, direct Asia Pacific to keep us advised as to the outcome of these private lawsuits. Should the courts find that Tan has engaged in unlawful or criminal activities, we will re-evaluate whether to take further action with regard to Asia Pacific's continuing fitness.

CITIZENSHIP

We find that Asia Pacific continues to meet the citizenship requirements of the Statute. There have been no changes in ownership since the carrier was found fit.⁸ Furthermore, there is nothing in the record that would lead us to conclude that control of this applicant is not with citizens of the United States.

⁷ This action was a result of a failure to maintain certain flight records for a required three-month period. While a civil penalty could be imposed, the FAA has indicated that the case is not likely to result in any adverse action against Asia Pacific's certificate.

⁸ See Order 98-9-20 at 3 for a detailed description of the ownership structure.

In conclusion, on the basis of all of the foregoing, we find that Asia Pacific continues to be fit to conduct its certificated operations and that it should be reissued certificates to engage in interstate and foreign charter all-cargo air transportation without restriction as to duration.

ACCORDINGLY,

1. We find that Aero Micronesia, Inc. d/b/a Asia Pacific Airlines continues to be fit, willing, and able to engage in interstate and foreign charter air transportation of property and mail.
2. We reissue the section 41102 certificate issued previously to Aero Micronesia, Inc. d/b/a Asia Pacific Airlines authorizing it to engage in interstate charter air transportation of property and mail in the attached form and subject to the attached terms, conditions, and limitations.⁹
3. We dismiss, as moot, the request of Aero Micronesia, Inc. d/b/a Asia Pacific Airlines to withhold from public disclosure information submitted pursuant to Rule 12 on February 14, 2000.
4. Should Aero Micronesia, Inc. d/b/a Asia Pacific Airlines propose to operate more than two aircraft, it must first notify the Department in writing at least 45 days in advance and demonstrate its fitness for such operations prior to placing the additional aircraft into service.
5. We will serve a copy of this order of the persons listed in Attachment A.

By:

FRANCISCO J. SANCHEZ
Assistant Secretary for Aviation
and International Affairs

*An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov>*

(SEAL)

⁹ Pursuant to 49 U.S.C. 41307, issuance of foreign authority to Asia Pacific Airlines is subject to Presidential review and will be handled in a separate order.

SERVED OCT 5 - 1998



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 5th day of October, 1998

Applications of

**AERO MICRONESIA, INC.
d/b/a ASIA PACIFIC AIRLINES**

**Dockets OST-98-3404
OST-98-3479**

for certificates of public convenience and necessity under
49 U.S.C. 41102 to engage in interstate and foreign charter
air transportation of property, and mail

**FINAL ORDER MAKING FITNESS DETERMINATION AND
ISSUING INTERSTATE CHARTER CERTIFICATE**

By Order 98-9-20, issued September 18, 1998, we directed all interested persons to show cause why we should not make final our tentative findings and conclusions stated in it and award certificates of public convenience and necessity to Aero Micronesia, Inc. d/b/a Asia Pacific Airlines authorizing it to engage in charter cargo air transportation of property and mail. Interested persons were given 14 days to file objections to the order.

No objections to the show-cause order were received within the answer period provided.

ACCORDINGLY,

1. We find that Aero Micronesia, Inc. d/b/a Asia Pacific Airlines is fit, willing, and able to engage in interstate and foreign charter air transportation of property, and mail.
2. We issue a certificate of public convenience and necessity to Aero Micronesia, Inc. d/b/a Asia Pacific Airlines authorizing it to engage in interstate charter air transportation, for a period of one year, in the form and subject to the Terms, Conditions, and Limitations attached.¹

¹ By this order, we issue only an interstate certificate to Asia Pacific. Issuance of a foreign certificate is subject to Presidential review under 49 U.S.C. 41307 and will be handled in a separate order.

3. We direct that, once its certificate becomes effective, should Aero Micronesia, Inc. d/b/a Asia Pacific Airlines propose to utilize more than two B-727 aircraft in its operations, it must notify the Department in writing at least 45 days in advance and demonstrate its fitness for such operations prior to placing the additional aircraft into service.²

4. We direct Aero Micronesia, Inc. d/b/a Asia Pacific Airlines to furnish, in conjunction with any application for renewal of the temporary authority granted herein, a statement of any changes in its ownership, key personnel, compliance history, operating plans, or financial posture which it may have undergone between the issuance of this temporary authority and the filing of such renewal application.³

5. We waive the 180-day advance filing requirement for renewal applications mandated by section 377.10(c)(1) of the Department's regulations and will require that any such renewal applications be filed at least 45 days in advance of the expiration of the certificates. Should such timely applications be filed, the certificates granted here shall continue in effect until such time as the Department acts on those applications.

6. We will serve a copy of this order on the persons listed in Attachment A to this order.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at:
<http://dms.dot.gov>*

² Furthermore, in accordance with the Department's Notice dated July 21, 1998, Asia Pacific is requested to give the Department a 30-day advance notification of any proposed change in ownership, restructuring or recapitalization. This notice should be submitted to the Air Carrier Fitness Division. The carrier may contact the Air Carrier Fitness Division prior to submitting its notice to determine what fitness information should be provided.

³ The report should include a description of the carrier's current operations (number and type of aircraft, principal markets served, total number of full-time and part-time employees), a summary of how these operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements, and a listing of current senior management and key technical personnel.



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

SERVED September 18, 1998

Issued by the Department of Transportation
on the 18th day of September, 1998

Applications of

**AERO MICRONESIA, INC.
d/b/a ASIA PACIFIC AIRLINES**

**Dockets OST-98-3404
OST-98-3479**

for certificates of public convenience and necessity under
49 U.S.C. 41102 to engage in interstate and foreign
charter air transportation of property and mail

**ORDER TO SHOW CAUSE
PROPOSING ISSUANCE OF CERTIFICATE AUTHORITY**

Summary

By this order, we tentatively find that Aero Micronesia, Inc. d/b/a Asia Pacific Airlines is a citizen of the United States and is fit, willing, and able to provide interstate and foreign charter air transportation of property and mail and should be issued certificates of public convenience and necessity for such operations.

Background

Section 41102 of Title 49 of the United States Code (Transportation) ("the Statute") directs us to determine whether applicants for certificate authority to provide interstate and foreign charter air transportation are "fit, willing, and able" to perform such transportation, and to comply with the Statute and the regulations of the Department. In making fitness findings, the Department uses a three-part test that reconciles the Airline Deregulation Act's liberal entry policy with Congress' concern for operational safety and consumer protection. The three areas of inquiry that must be addressed in order to determine a company's fitness are whether the applicant (1) will have the managerial skills and technical ability to conduct the proposed operations, (2) will have access to resources sufficient to commence operations without posing an undue risk to consumers, and (3) will comply with the Statute and regulations imposed by Federal and State agencies. We must also find that the applicant is a U.S. citizen.

On January 29, 1998, Asia Pacific Airlines, Inc., located in Saipan, Commonwealth of the Northern Mariana Islands (CNMI), filed an application in Docket OST-98-3404 for a certificate to provide interstate charter air transportation of property and mail pursuant to section 11102 of the Statute. On February 12, 1998, Asia Pacific filed a companion application in Docket OST-98-3479 seeking a foreign charter cargo certificate. Asia Pacific accompanied its applications with the fitness information required by section 204.3 of our regulations.¹

On April 6, 1998, Mr. Carlos H. Salas, Executive Director of the Ports Authority of the CNMI, wrote to the Department expressing support for Asia Pacific's applications on the grounds that the new air service would have a positive effect on the Commonwealth's economy.

On July 16, 1998, the applicant filed an amendment to its applications, stating that, on June 20, 1998, it had merged into Aero Micronesia, Inc. ("AMI"), a sister company engaged in aircraft leasing. This transaction resulted in a change in the corporate entity applying for the certificate authority from Asia Pacific Airlines, Inc., to Aero Micronesia, Inc. d/b/a Asia Pacific Airlines. AMI stated that it leases the B-727-200 aircraft to be used in the proposed certificated operations from Trans Pacific Leasing Corporation ("TPL"), which had refused to allow AMI to sublease the aircraft to Asia Pacific. Since Asia Pacific and AMI could not identify any other suitable available aircraft, they decided a merger between the two would eliminate the sublease objection of TPL. Hereinafter, the applicant will be referred to by its operating trade name, Asia Pacific, except when the issue applies to the corporate activities of AMI.

On August 13, 1998, TPL and Ryan International Airlines, Inc. ("Ryan") filed answers to Asia Pacific's amended applications, alleging that the applicant did not have access to the aircraft to be used in its proposed operation. On August 18, Asia Pacific filed a motion for leave to file an unauthorized document and reply to the answers of TPL and Ryan. On August 21, TPL filed a motion for leave to file a response to Asia Pacific's answer. The issues raised in the answers will be discussed in the section on **"Financial Plan and Operating Proposal."**

Other information bearing on the applicant's compliance disposition came to our attention during the course of this proceeding. These matters are discussed in the section on **"Compliance Disposition."**

We propose to decide the issue of the applicant's fitness on the basis of the written record, and we tentatively conclude that Asia Pacific is a U.S. citizen and is fit, willing, and able to operate its proposed interstate and foreign charter cargo service. However, we will give

¹ Asia Pacific asked for confidential treatment of its and its parent's financial information (see section on **"Request for Confidential Treatment of Documents"**). Asia Pacific also filed information supplementing its applications on April 1, June 29, and July 8, 1998.

interested persons an opportunity to show cause why we should not adopt as final the tentative findings and conclusions stated herein.

The Company

Asia Pacific was organized as a corporation under the laws of Guam in April 1996, by Consolidated Transportation Services, Inc. ("CTSI"), a CNMI corporation, for the purpose of leasing a B-727-200 aircraft. CTSI owns 92.5 percent of the applicant's voting stock, and Mr. Michael R. Quinn, Asia Pacific's President, owns the remaining 7.5 percent of the stock. CTSI, located in Saipan, is engaged in international air and ocean freight forwarding, customs clearance, warehousing and storage, trucking, door-to-door delivery, and other specialized freight forwarding services. CTSI is a wholly owned subsidiary of Tan Holdings Corporation ("THC"), a CNMI corporation also based in Saipan that has subsidiaries engaged in garment manufacturing, real estate, property development and management, amusement operations, retail hardware and home improvement products, aircraft ground handling, insurance, and commercial fishing. THC is owned by members of the Tan family through family trusts, each of which owns between 10 and 30 percent of THC. These trusts are the Siu Lin Tan Trust, Pak Kim Lam Trust, Henry Tan Trust, Willie Tan Trust, Raymond Cho Lung Tan Trust, and Lily Tan Chou Trust. Mr. Siu Lin Tan, the head of the Tan family, serves as trustee for all six trusts. Asia Pacific states that the Tan family member beneficiaries share an undivided interest in their respective trusts. The members of the board of directors of Asia Pacific are Michael R. Quinn (President of Asia Pacific), Jerry L. Tan (Secretary and Treasurer of Asia Pacific), George Chiu (Asia Pacific's Vice President of Finance) and David M. Sablan (Executive Vice President of CTSI).

If its applications are approved, Asia Pacific intends to provide charter cargo operations from a base in Guam to points in the Marshall Islands, Palau, and the Federated States of Micronesia, and to Hawaii and the western United States, using, initially, a single leased B-727-200F aircraft. Asia Pacific anticipates that it will add an additional aircraft to its fleet in the future to provide service to other regions of the western Pacific, including the Solomon Islands, Indonesia and the Philippines.

Managerial Competence

Mr. Michael R. Quinn is Asia Pacific's President. In addition to having the overall responsibility for the planning and direction of Asia Pacific's operations, Mr. Quinn also serves as President of Northwest Capital Aviation ("NCA"), an airline consulting and lease management company which provides transport aircraft marketing, acquisition, and disposition services.² Prior to his formation of NCA in 1990, Mr. Quinn worked for almost 11 years in aviation-related managerial positions with various companies, including GATX Leasing Corporation, Quinn Aviation (airline and aircraft finance consulting company), and Braniff Airways. In addition, he has served as a pilot for Braniff Airways and the United States

² Mr. Quinn estimates he will devote 90 percent of his time to Asia Pacific's activities.

Navy. He holds an Airline Transport Pilot Certificate from the FAA and is type-rated on the B-727 aircraft.

Mr. Jerry L. Tan will serve as Asia Pacific's Secretary and Treasurer. He has worked for 15 years in various management positions for THC and its subsidiaries, including Executive Vice President responsible for THC's business in Saipan and Guam, and General Manager for Unity Development Corporation d/b/a Century Plaza. He will have oversight over the accounting and financial interests of Asia Pacific, but will not be involved in the day-to-day operations of the company.

Mr. George Chiu has been named Asia Pacific's Vice President of Finance. Mr. Chiu holds a Bachelor's degree with a major in accounting and management from the University of Guam and he is a Certified Public Accountant. He has worked for six years in various management positions for THC, including as President of AMI before its merger with Asia Pacific Airlines, Inc., President of Cosmos Distributing Company, Ltd., Vice President of CTSI, and Vice President of THC. He also worked as an audit manager at KPMG Peat Marwick for four years. He will monitor Asia Pacific's financial performance and participate in the scheduling of flights to service various companies within the THC group.

Mr. Robert R. Walker will be Asia Pacific's Vice President of Marketing. He has 30 years of aviation experience including Managing Director of National Fisheries Corporation Air Freight Company, a division of National Fisheries Corporation. He also served as Director of Cargo for Continental Micronesia where he was responsible for sales, service and policy administration. Finally, he worked at The Flying Tiger Line as the Manager of Terminal Operations at New York's Kennedy Airport, General Manager of South America, and District Manager of Puerto Rico.

Asia Pacific's Director of Maintenance will be Mr. Charles E. Gebhardt. He has 30 years of aircraft maintenance management experience including serving as the director of aircraft maintenance for Tristar Airlines and Air Cal, Inc., Vice President of Operations for The Dee Howard Company, Senior Director of Aircraft Modifications for Tracor Aviation, Inc., and Manager of Technical Services for Continental Airlines. Mr. Gebhardt holds an FAA Airframe and Powerplant Mechanic Certificate.

Mr. Stephen L. Leavell has been selected to serve as Asia Pacific's Director of Operations. He has worked for United Air Lines for the last 32 years in such supervisory positions as line check airman, flight manager, and standards captain for B-727 aircraft. Mr. Leavell holds an Airline Transport Pilot Certificate from the FAA and is type-rated on the B-727. He also has logged 17,000 hours of flight time.

Asia Pacific's Chief Pilot will be Mr. J. Christen Thornburg. He holds an Airline Transport Pilot Certificate from the FAA, and is type-rated on the B-727. He has worked in the aviation industry as a pilot for 25 years. Nine of those years was spent working as a B-727 captain for various companies including Ryan International Airlines and Key Airlines. Mr. Thornburg has 17,000 flight hours including 3,600 hours as pilot-in-command of the B-727 aircraft.

In view of the experience and background of the applicant's key personnel,³ we tentatively conclude that Asia Pacific has demonstrated that it has the management skills and technical ability to conduct its proposed service.⁴

Financial Plan and Operating Proposal

If granted the certificate authority it seeks, Asia Pacific intends to provide charter air transportation of garments, tuna, and mail in the western Pacific region using one B-727 aircraft. The company expects that its operations will consist of approximately 187 block hours per month. It plans to contract out its heavy maintenance to Santa Barbara Aerospace in California and it intends to enter into a ground-handling and cargo-handling agreement with Continental Micronesia in Guam.

The applicant furnished data on its proposed flight operations, forecast monthly load factors and revenue and operating costs, a pro forma balance sheet for its first year of operations, and a schedule of projected pre-operating expenses. Asia Pacific also provided a detailed narrative explanation of how its projections were derived, based on management experience in the aviation industry, historical operational data, supplier quotations, and maintenance reserve cost estimates required by the aircraft lease contract. The applicant projects first-year total operating revenues of \$7.86 million and total operating expenses of \$7.70 million, based on 2,249 block hours of operation, resulting in an estimated profit of approximately \$160,000. Asia Pacific also estimated that \$470,000 will be required to cover pre-operating expenses, including consulting costs, crew training, proving runs and salaries. We have examined the applicant's estimated expenses and find them to be reasonable. Based on our analysis of its

³ In addition to the individuals noted above, Asia Pacific has designated other persons who appear to be well qualified to hold their respective managerial positions with the Company. Ms. Alicia Atalig, Director of Safety, joined Asia Pacific from Pacific Island Aviation, Inc. in Saipan, where she served as the Chief Pilot for five years. She also holds an Airline Transport Pilot Certificate and an Airframe and Powerplant Mechanic Certificate from the FAA. Mr. Jack Schreiman, Chief Inspector, holds an FAA Airframe and Powerplant Mechanic Certificate. He has 34 years of experience at Continental Airlines working in positions as a mechanic, an inspector, and a quality control representative.

⁴ Before authorizing a carrier to conduct air transportation operations, the FAA also evaluates certain of the carrier's key personnel with respect to the minimum qualifications for those positions as prescribed in the Federal Aviation Regulations. The FAA's evaluation of these key personnel provides an added practical and in-person test of the skills and technical ability of these individuals.

forecasts, it appears that Asia Pacific will need access to resources of at least \$2.39 million to meet the Department's financial fitness criteria.⁵

Funding for Asia Pacific's start-up and initial operations has been and will continue to be provided by its owner, CTSI. Thus far, CTSI has provided Asia Pacific with equity investments totaling \$500,000. Further, CTSI has also provided the applicant with a cash loan totaling \$2,000,000. The Bank of Guam has provided verification that the funds have been deposited into Asia Pacific's bank account.

Proposed Aircraft

On August 13, TPL and Ryan filed answers opposing Asia Pacific's amended applications for air carrier authority.

TPL, which is the owner and lessor of a B-727-200 freighter, FAA registration number N17789--the aircraft that Asia Pacific indicated that it intended to use for its operation--states that Asia Pacific provided inaccurate and incomplete information to the Department regarding the availability of the aircraft. TPL insists that the aircraft is sub-subleased to Ryan until May 16, 1999. Ryan's answer to Asia Pacific's applications states that Ryan has the right to and intends to use the aircraft for charter air transportation of fresh fish until the expiration of the lease on May 16, 1999. TPL argues that Asia Pacific made "inaccurate and incomplete representations" to the Department by failing to divulge that the aircraft was under lease to Ryan.

Asia Pacific filed a motion for leave to file an unauthorized document and reply to the answers of TPL and Ryan.⁶ The applicant states that TPL leased the aircraft in question to AMI (prior to its merger with Asia Pacific), which subsequently subleased it to National Fisheries Corporation ("NFC"), which, in turn, sub-subleased it to Ryan, which operates the aircraft for NFC. Asia Pacific further states that, under New York law, which governs the lease agreement, once it has obtained the required certificate authority, it will have the right to operate the aircraft. It argues that TPL failed to recognize certain provisions in the lease contract which support the repossession of the aircraft by AMI, because NFC failed to make rental payments. Asia Pacific maintains that, if for some reason, it is unable to repossess the aircraft identified in the lease, it would locate another aircraft. It states that this should not

⁵ This amount is comprised of the projected \$470,000 in pre-operating costs plus \$1,924,472, which is approximately one-fourth of the applicant's estimated total first-year operating costs of \$7,697,887. In evaluating an applicant's financial fitness, the Department generally asks that the company have available to it resources sufficient to cover all pre-operating costs plus a working capital reserve equal to the operating costs that would be incurred in three months of normal certificated operations. Because projected expenses during one or more of the first several months of service frequently do not include all costs of operations that will be incurred during a normal period of operations, it is our practice to base our three-month test on one quarter of the first year's operating cost forecast. In calculating available resources, projected revenues may not be used.

⁶ We will grant the motion.

affect its fitness evaluation because most applicants do not identify in their application the specific aircraft which will be used.

TPL filed a motion for leave to file a response to Asia Pacific's reply.⁷ TPL concedes that AMI has the right to repossess the aircraft as a result of NFC's default on the aircraft lease payments, but contends that AMI still may not operate the aircraft without TPL's consent.

We agree with Asia Pacific that we should not delay our fitness review of the applicant because the aircraft it originally proposed to operate may no longer be available.⁸ If the applicant is unable to locate another aircraft, it will not be able to operate. If it does locate an aircraft, it will be required to provide us with updated information on the new aircraft including any changes in its forecast operating expenses, prior to our making its authority effective (see "**Certificate Conditions and Limitations**", below). Moreover, we conclude that Asia Pacific had reasonable cause to believe it would have use of the aircraft for its operations, and we consider the dispute over the interpretation of the lease terms to be a matter to be resolved among the parties themselves, with recourse to the courts, if necessary.

In consideration of the foregoing, we tentatively conclude that Asia Pacific has developed a reasonable operating proposal and will have sufficient financial resources available to it to enable it to commence its proposed charter cargo operations without posing an undue risk to consumers or their funds.

Compliance Disposition

Asia Pacific stated that there are no actions or outstanding judgments against it, its owner, or its key personnel, nor have there been any charges of unfair, deceptive or anti-competitive business practices, or of fraud, felony or antitrust violations brought against any of these parties in the past ten years. Asia Pacific further stated that there are no pending investigations, enforcement actions, or formal complaints filed by the Department against it, its key personnel, or persons having a substantial interest in it with respect to compliance with the Statute or the Department's regulations.

⁷ We will grant TPL's motion.

⁸ The applicant explained that THC's decision to start an airline with the specific aircraft identified in the applications was the result of an understanding reached during several meetings between AMI, NFC, and TPL in late 1997 after NFC had fallen substantially in arrears on its aircraft lease payments, resulting in AMI and THC having to subsidize NFC's operation. Several months later, TPL's management changed, and the new management refused to allow Asia Pacific to sublease the aircraft.

On August 31, 1998, we received a letter from Mr. Peter Sitan, President of NFC, disputing the applicant's statement that NFC had attended meetings with AMI and TPL in late 1997 at which an understanding was reached about the new airline and its use of the aircraft now being operated by Ryan. NFC also contradicted Asia Pacific's statement regarding the amount and cause of NFC's aircraft lease payment delinquency.

We have researched the compliance of THC and its subsidiaries with the laws and regulations of other government agencies, including the Department of the Interior, the Occupational Safety and Health Administration ("OSHA"), the Department of Labor, the Immigration and Naturalization Service, and the U.S. Customs Service. The Department of the Interior reported that on December 13, 1991, a Plea Agreement was filed in a criminal case in the U.S. District Court for the Northern Mariana Islands, in which L & T International Corporation, a company founded and headed by Mr. Siu Lin Tan, had entered a plea of *nolo contendere* to a violation of 18 U.S.C. 1001 (making false statements) and was fined \$500,000 and placed on three years' probation.⁹ In a related matter, Messrs. Willie Tan, Jerry Tan, and Siu Lin Tan, and several companies they control, including L & T International Corporation, entered into a Consent Judgment on May 21, 1992.¹⁰ In this proceeding, the defendants were charged with violating provisions of sections 11(c) and 15(a) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201, *et seq.*) for failing to keep certain required payroll records, for failing to pay overtime to employees for work performed beyond 40 hours per week, and for retaliating against employees who had protested these activities. The defendants were ordered to pay a judgment of \$9,000,000, one-half of which constituted unpaid overtime compensation, and one-half constituted liquidated damages and compensatory and legal relief, due contract employees employed between July 1, 1988, and July 26, 1991. We understand that this fine was the largest assessed to date by the Labor Department in connection with such violations.

In addition, the applicant verified that, over the past six years, OSHA fined the THC garment manufacturing operations over \$134,000 for a range of alleged violations including locked or blocked fire doors, overcrowded and inadequately ventilated housing, unsanitary areas, exposed high-power electrical outlets, and unprotected sharp or dangerous machine parts. Forty such violations that OSHA terms "serious" were cited in 1993, 49 in 1996, but only two in 1998. The other government agencies of whom we inquired responded that they had not issued any complaints or brought any charges against any of the THC companies in the past six years.

While we were distressed to learn about the serious violations with which the THC companies were charged and fined in 1991 and 1992, we are also concerned the applicant did not report these important matters in its applications. We note that the applicant states that, because L & T has no influence over Asia Pacific, it thought that it had no obligation to disclose its plea of *nolo contendere* to a violation of 18 U.S.C. 1001. It also states that it thought it only had to report enforcement actions by the DOT or FAA and not other government agencies.

⁹ *United States of America v. L & T International Corporation*, Crim. Case No. 91-00018, U.S. District Court for the Northern Mariana Islands, Plea Agreement, filed December 13, 1991.

¹⁰ *Lynn Martin, Secretary of Labor, United States Department of Labor v. American International Knitters Corp. et al.*, Civ. Action No. 91-0027, U.S. District Court for the District of the Northern Mariana Islands, Consent Judgment, filed May 21, 1992.

It is arguable whether the applicant was required by our rules to report the criminal and civil charges against the THC companies and their principals.¹¹ Nevertheless, these charges bear witness at a minimum to the existence of poor labor-management relations, which in turn may adversely affect the safety of an enterprise. In addition, the violations cited are a reflection on the competence of the THC garment manufacturing managers and their disposition to comply with the laws and regulations applicable to their business. We note, however, that the THC garment manufacturing companies, which have no direct relationship to or influence upon Asia Pacific, appear to have improved in their compliance with the laws and regulations applicable to their operations. The most serious transgressions took place several years ago, and the recent subsequent infractions have been significantly diminishing both in number and gravity. Moreover, no government agencies other than the Department of Labor and OSHA have provided documented evidence of any violations by the THC companies.

Our search of the Department's records found no compliance problems with Asia Pacific, its owners, or key personnel. Further, the FAA has advised us that the company has applied for certification under Part 121 of the Federal Aviation Regulations and that the certification process is proceeding normally. The FAA also advised that all key personnel have been found qualified to hold their respective positions.

Nevertheless, the violations on the part of the garment companies' management are serious and, although the most egregious violations occurred seven to ten years ago, they would weigh very heavily against our finding that Asia Pacific's compliance disposition is satisfactory if the airline were under the direct control of those individuals. On the other hand, Asia Pacific's applications meet our fitness scrutiny in all other respects -- the airline's management team is satisfactory, as is its financial preparedness, and the compliance history of the airline itself, including all members of its management team, is satisfactory. The practical concern, then, is whether those responsible for the THC garment companies' past poor compliance are likely to exercise significant operational control over the airline and, if so, whether that history portends the imposition of unacceptable airline practices.

The validity of this concern can only be determined after we have observed Asia Pacific's operations over a period of time. Because the compliance disposition picture of the THC companies has improved over the recent past, we have tentatively decided to grant Asia Pacific cargo charter certificates for one year. This limitation will allow us to monitor more closely Asia Pacific's compliance disposition. Over that period, we will obtain reports from OSHA and other agencies on the THC companies' compliance with the relevant laws and regulations, and reports from the Department's own files, including those of the FAA, on Asia Pacific's compliance and safety record before considering whether to grant any requested extension of its authority.

¹¹ Section 204.3(p) of our rules requires applicants to provide a description of "all charges of unfair or deceptive or anticompetitive business practices, or of fraud, felony or antitrust violation, brought against any relevant corporation or person having a substantial interest in any relevant corporation."

CITIZENSHIP

Section 41102 requires that certificates to engage in air transportation be held only by citizens of the United States as defined in 49 U.S.C. 40102(a)(15). That section requires that the president and two-thirds of the board of directors and other managing officers be U.S. citizens and that at least 75 percent of the outstanding voting stock be owned by U.S. citizens. We have also interpreted the statute to mean that, as a factual matter, the carrier must actually be controlled by U.S. citizens.

Asia Pacific is a corporation organized in Guam, a territory of the United States. In addition, Asia Pacific is owned by CTSI, a wholly owned subsidiary of THC, which are both U.S. citizens. THC is owned through family trusts (each owning between 10 and 30 percent of THC). The trustee of each of the six trusts is Mr. Siu Lin Tan, a U.S. citizen. In addition, the Tan family trust beneficiaries are all U.S. citizens except two partial beneficiaries of two separate family trusts. The combined ownership share of these two trusts is less than 25 percent of the total. All of the company's key personnel are U.S. citizens, and Asia Pacific has provided an affidavit attesting that it is a citizen of the United States within the meaning of the Statute and that it is actually controlled by U.S. citizens. Finally, our review of the applicant's citizenship has uncovered no reason to suggest that control of Asia Pacific rests with non-U.S. citizens.

Based on the above, we tentatively conclude that Asia Pacific is a citizen of the United States and is fit, willing, and able to conduct the interstate and foreign charter cargo operations proposed in its applications.

OBJECTIONS

We will give interested persons 14 calendar days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; answers to objections will be due within 7 calendar days thereafter. We expect such persons to direct their objections, if any, to the applications and points at issue and to support such objections with detailed economic analyses.¹² We will not entertain general, vague, or unsupported objections. If no substantive objections are filed, we will issue orders that will make final our tentative findings and conclusions with respect to Asia Pacific's fitness and certification, and will issue certificates that will contain an exact copy of the attached Terms, Conditions, and Limitations.

¹² If an oral evidentiary hearing or discovery procedures are requested, the objector should state in detail why such a hearing or discovery is considered necessary, and what material issues of decisional fact the objector would expect to establish through a hearing or discovery that cannot be established in written pleadings. The objector should consider whether discovery procedures alone would be sufficient to resolve material issues of decisional fact. If so, the type of procedure should be specified (See Part 302, Rules 19 and 20); if not, the reasons why not should be explained.

CERTIFICATE CONDITIONS AND LIMITATIONS

If Asia Pacific is found fit and issued the certificates it seeks, its authority will not become effective until the company has fulfilled all requirements for effectiveness as set forth in the terms and conditions attached to its certificates. Among other things, this includes our receipt of evidence that Asia Pacific has been certified by the FAA to engage in the subject operations, a fully executed OST Form 6410 evidencing liability insurance coverage that meets the requirements of Part 205 of our rules, and a statement of changes it may have undergone since its fitness was examined. If Asia Pacific finds it necessary to lease a type of aircraft other than that proposed in its applications, it must file an amended operating cost forecast.

Moreover, if Asia Pacific receives effective certificate authority, its authority shall be limited to a one-year period. Due to our concerns about whether the troublesome compliance history of companies related to the applicant will have a deleterious effect on Asia Pacific's own disposition to comply with the laws and regulations applicable to its operations, we are not prepared to grant Asia Pacific permanent authority at this time. During the one-year period of actual air transportation operations, we will have an opportunity to monitor the company's compliance and safety record as well as the compliance record of other THC companies. Should Asia Pacific choose to renew its certificate authority, it will be required to submit updated fitness data with its renewal applications.¹³ We will review all of this material prior to making a decision on whether any additional authority should be granted.

Furthermore, we remind Asia Pacific of the requirements of 49 U.S.C. 41110(e). Specifically, that section requires that, once a carrier is found fit initially, it must remain fit in order to hold its authority. To be assured that certificated air carriers continue to be fit after effective authority has been issued to them, we require that they supply information describing any subsequent substantial changes they may undergo in areas affecting fitness. Therefore, if Asia Pacific is issued effective certificates, should it subsequently propose substantial changes in its ownership, management, or operations, it must first comply with the requirements of

¹³ Section 377.10(c)(1) of our rules, as it applies to a carrier holding a section 41102 certificate, requires an applicant to file for renewal of temporary authority 180 days before the authority is due to expire. We find such an early filing deadline to be unnecessary in this case and will waive the 180-day advance filing requirement in favor of 45 days, and will consider any renewal applications so filed to be timely.

With any renewal applications, Asia Pacific will be directed to provide us with a report on any changes in its ownership, key personnel, compliance history, operating plans, or financial posture which it may have undergone between the issuance of its temporary authority and the filing of its applications for renewed authority. This report should also include a description of the carrier's current operations (number and type of aircraft, principal markets served, total number of full-time and part-time employees), a summary of how its operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements, and a listing of current senior management and key technical personnel.

section 204.5 of our rules.¹⁴ The compliance of the company with this requirement is essential if we are to carry out our responsibilities under section 41110(e).¹⁵

REQUEST FOR CONFIDENTIAL TREATMENT

Asia Pacific filed a motion requesting that the financial statements of its parent, CTSI, for calendar years 1995, 1996, and 1997 be accorded confidential treatment under 14 CFR 302.39. It also requested that Asia Pacific's 1998 year-end balance sheet, its projected balance sheet for April 1999, its projected income statement for the twelve months ending April 30, 1999, its response to question 19 in the Department's letter of February 20, 1998, regarding projected first year costs, and a chart showing its personnel salary and expenses be accorded confidential treatment. In addition it requested that the detailed information related to the ownership structure and control of the Tan companies be withheld from public disclosure.

Rule 39 instructs us to evaluate requests for confidential treatment in accordance with the standards of disclosure found in the Freedom of Information Act (5 U.S.C. section 552). By this standard, information may be withheld from disclosure if it is "(1) commercial or financial, (2) obtained from a person outside the government, and (3) privileged or confidential."¹⁶

The information sought to be withheld from disclosure clearly meets the first two requirements. The only question, therefore, is whether the information is privileged or confidential--whether "disclosure of the information is likely to have either of the following effects: (1) to impair the government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained."¹⁷

¹⁴ By notice dated July 21, 1998, the Department requested air carriers to provide a 30-day advance notification of any proposed change in ownership, restructuring, or recapitalization. Asia Pacific may contact our Air Carrier Fitness Division to report proposed substantial changes in its operations, ownership or management, and to determine what additional information, if any, will be required under section 204.5. If the carrier fails to file the information or if the information fails to demonstrate that the carrier will continue to be fit upon implementation of the substantial change, the Department may take such action as is appropriate, including enforcement action or steps to modify, suspend, or revoke the carrier's certificate authority.

¹⁵ We also remind Asia Pacific about the requirements of section 204.7 of our rules. This section provides, among other things, that (1) the certificate authority granted to a company shall be revoked if the company does not commence actual flying operations under that authority within one year of the date of the Department's determination of its fitness; (2) if the company commences operations for which it was found fit and subsequently ceases such operations, it may not resume certificated operations unless its fitness has been redetermined; and (3) if the company does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

¹⁶ *Gulf & Western Industries, Inc. v. U.S.*, 615 F.2d 527, 529 (D.C. Cir. 1979).

¹⁷ *National Parks and Conservation Association v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974).

Furthermore, to be privileged or confidential, the information must not be of the type that is usually released to the public.¹⁸

The financial statements of the parent of Asia Pacific are the type of verification required to be submitted by applicants that propose to rely on the resources of a parent company to meet our financial fitness criteria for which we routinely grant confidentiality. We construe these documents as being confidential and proprietary and conclude that their public disclosure would provide no public benefit but could result in competitive harm to Asia Pacific and its affiliates. Therefore, we are granting the applicant's motion with respect to these documents.

In addition, the applicant has requested confidential treatment for its forecast balance sheets and income statement and the information it supplied in response to our information request of February 20, 1998 (question 19) regarding its projected first year costs. Except for Asia Pacific employee salary data, these documents are not of the sort ordinarily granted confidential treatment. Rather, these forecasts are typical of the kinds of financial projections provided by all applicants as evidence of their understanding of the costs involved in starting and operating an airline and of the assumptions and methodology used in calculating the data. The Department does not routinely grant confidential treatment for such information so that interested parties may have an opportunity to comment on the reasonableness of the applicant's financial forecasts.

Therefore, we are denying Asia Pacific's request for confidential treatment of its projected balance sheet and income statement for the periods ended December 1998 and April 1999 and are granting its request with respect to the applicant's employee salary data in Exhibits APA-B-5 and APA-B-6.¹⁹

Under Rule 39, a Department order ruling on motions for confidential treatment will not take effect if, within five business days after issuance, the person requesting confidential treatment files a petition for reconsideration of that order, or files a statement that he or she in good faith intends to seek judicial review of the order. If the applicant elects to petition the Department as to this confidentiality determination, we expect that it will provide a statement explaining how the item falls within the exemptions under the Freedom of Information Act and a statement explaining how and why public disclosure of the information would adversely affect its interests and is not required by the public interest. Responses shall be due within five calendar days of the filing of such a petition.

¹⁸ *Gulf & Western Industries, Inc. v. U.S.*, *supra*, 615 F.2d at 530.

¹⁹ We will grant confidential treatment for Exhibit APA-B-6 in its entirety, and will direct Asia Pacific to file a redacted version of Exhibit APA-B-5 deleting the salary figures on page APA-B-5.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue orders making final the tentative findings and conclusions stated above and award certificates to Aero Micronesia, Inc. d/b/a Asia Pacific Airlines, authorizing it to engage in interstate and foreign charter air transportation of property and mail, for a period of one year, subject to the attached specimen Terms, Conditions, and Limitations.
2. We direct any interested persons having objections to the issuance of orders making final any of the proposed findings, conclusions, or the certificate award set forth here to file them with Department of Transportation Dockets, 400 Seventh Street, SW, Room PL-401, Washington, D.C. 20590, in Dockets OST-98-3404 and OST-98-3479, and serve them upon all persons listed in Attachment A no later than 14 calendar days after the service date of this order; answers to objections shall be filed no later than 7 calendar days thereafter.
3. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised by the objections before we take further action.²⁰
4. In the event that no objections are filed, we will consider all further procedural steps to be waived and we will enter orders making final our tentative findings and conclusions.
5. We grant the motion of Aero Micronesia, Inc. d/b/a Asia Pacific Airlines, for confidential treatment of documents to the extent discussed in this order. To the extent not granted, we deny its request.
6. Petitions for reconsideration of the Rule 39 determination in this order or a statement of intent to seek judicial review are due on the fifth business day after service of this order. Answers to petitions for reconsideration to the Rule 39 determination are due five calendar days thereafter.
7. Unless a petition for reconsideration of the Rule 39 determination in this order is filed or the applicant seeks judicial review, this decision will become effective on the sixth business day after service of the order.
8. We grant the motions of Aero Micronesia, Inc. d/b/a Asia Pacific and Trans Pacific Leasing Corporation to file unauthorized documents.
9. We will serve a copy of this order on the persons listed in Attachment A.

²⁰ Since we have provided for the filing of objections to this order, we will not entertain petitions for reconsideration.

10 We will publish a summary of this order in the Federal Register.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at:
<http://dms.dot.gov>*